United Nations

S/2005/331

Security Council

Distr.: General
23 May 2005

Original: English

Letter dated 23 May 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to my first semi-annual report on the implementation of Security Council resolution 1559 (2004) (S/2005/272), in which I informed the Council that I had dispatched a technical military team to Lebanon to verify the full and complete withdrawal of all Syrian troops, military assets and intelligence apparatus. I hereby transmit to the Council the report of the verification team (see annex).

I should be grateful if you would bring it to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex

Report of the United Nations mission to verify the full and complete withdrawal of Syrian forces from Lebanon pursuant to Security Council resolution 1559 (2004) — 26 April to 13 May 2005

I. Introduction

1. In the first semi-annual report of the Secretary-General to the Security Council on the implementation of resolution 1559 (2004) (S/2005/272) it was noted that a United Nations mission was despatched to verify the full and complete withdrawal of Syrian troops, military assets and intelligence apparatus from Lebanon.

2. The mission was carried out by a technical team of three United Nations military staff members: Brigadier General Elhadji Mouhamadou Kandji, the Deputy Military Adviser from the Department of Peacekeeping Operations and the team leader; Colonel Ian Sinclair, the Chief of Staff of the United Nations Force in Cyprus; Commander Kari Makinen, a staff officer in the Military Division of the Department of Peacekeeping Operations; and Galal Zeid, a United Nations interpreter. United Nations security personnel also supported the team.

II. Preliminary work (26-30 April 2005)

3. On 26 April 2005, the team deployed to Damascus, where the officers joined up with their interpreter and security personnel. On 27 and 28 April, the team held meetings with the Syrian military authorities to obtain relevant information on Syria's previous military and intelligence presence in Lebanon. The Syrian delegation consisted of Major General Adeeb Qasim, the Deputy Chief of Staff of the Syrian Army; Major General Fayz Haffar, the last commander of Syrian forces in Lebanon; and Brigadier General Darwish, Head of the Senior Syrian Arab Delegates.

4. At the team leader's request, the Syrian military authorities provided the mission with documents and a marked map (1:50,000 scale) depicting the positions that Syrian forces and military intelligence had occupied before their final withdrawal in April 2005. The Syrian military authorities cooperated fully with the mission and provided an initial database of information from which the team could plan its verification work.

5. The mission then moved to Beirut by road on 28 April 2005, visiting on the way the former headquarters of Syrian forces in Lebanon, which had been located in Syrian territory, a few kilometres before the border crossing point on the highway to Lebanon. During this visit, the team also saw some Syrian forces and vehicles that had reportedly been withdrawn recently from Lebanon. After its arrival in Beirut, the team consulted with the Lebanese military authorities on 29 and 30 April, meeting Lieutenant General Michel Sleiman, the Chief of Staff of the Lebanese Armed Forces, and Brigadier General Emad Anka, who would accompany the team during its stay in Lebanon.

6. The Lebanese military authorities furnished the team with documents and maps showing former Syrian positions in Lebanon. The team then cross-referenced

these documents and maps with the information provided by the Syrian military authorities, thereby developing their database of information. Lieutenant General Sleiman assigned a team of military officers, led by Brigadier General Anka, to accompany the mission. In addition, military police were assigned to protect the team throughout its stay in Lebanon. The Lebanese military authorities cooperated fully with the mission and their support facilitated its work considerably.

7. The team also consulted with members of the defence attachés' community in Beirut on 29 April 2005 in order to develop further its understanding of the former Syrian military presence in Lebanon.

8. By the end of this series of consultations, the team had compiled a database of information on where Syrian military forces, assets and intelligence apparatus had been located in Lebanon before their final withdrawal. These locations were concentrated in two areas: the coastal strip to the west of Mount Lebanon around Beirut and Tripoli; and the Bekaa valley to the east.

9. The Syrian withdrawal was conducted in two phases:

(a) In the first phase, in March 2005, the majority of Syrian forces were withdrawn from the areas west of Mount Lebanon and concentrated in the Bekaa valley.

(b) In the second phase, which was apparently complete by 26 April 2005, the Syrians withdrew all military forces from the Bekaa valley and all remaining forces west of Mount Lebanon back to Syrian territory. A military ceremony was held on 26 April 2005 at Rayak airbase in the Bekaa valley to mark the final withdrawal of Syrian forces from Lebanon.

10. The team then completed its mission analysis and subsequent planning for the verification task. The concept was to verify the Syrian withdrawal by visiting on the ground all of the former Syrian military locations that had been identified in the database of information. The verification was to be facilitated by the team of Lebanese military officers travelling with the mission and by local commanding officers and intelligence officers, who were able to guide the team in their respective sectors.

III. Conduct of the mission (1-13 May 2005)

A. General

11. The team began its verification activities on 1 May 2005 and for the following 10 days conducted verification on the ground throughout Lebanon. In addition to verifying locations in the database, the team also verified further locations when supplementary information came to light. Verification on the ground was conducted in three phases:

(a) In phase one (1-2 May), the team visited former Syrian locations to the west of Mount Lebanon, which were mostly concentrated in Beirut, Tripoli and the coastal areas north and south of the cities. Many of these positions had been vacated several years ago but a few had been recently abandoned.

(b) In phase two (3-7 May), the team verified the withdrawal of Syrian forces from the Bekaa valley, where signs of more recent presence were apparent.

(c) In phase three (10 May), the team carried out a final sweep of possible former Syrian locations south of Beirut and in the capital city.

12. The team conducted final meetings with the Lebanese military authorities on 11 May in Beirut and with the Syrian military authorities on 12 May at the border, before departing from Lebanon on 13 May 2005.

13. The team made a detailed register of the verification work, recording each position visited, confirming the geographic location accurately by the use of both map and global positioning system (GPS), recording the number of photographs taken of the position and noting any remarks about the position. The team took over 600 photographs to confirm what had been seen and collected evidence of former Syrian military presence whenever it was found. The team also recorded the status of abandoned Syrian defence works, in order to advise on their disposal or destruction, and noted the current use of former Syrian defence positions by Lebanese military forces.

B. Noteworthy verification events

14. On 4 May, the team visited the area of Qoussaya, where reports had indicated that Syrian military personnel or equipment might be found. Qoussaya is a Palestinian-controlled area in the eastern hills of the central Bekaa valley, not far from the border with the Syrian Arab Republic. At 0920 the team approached an entrance to the Palestinian camp, which was guarded by two armed Palestinians. One guard at once ordered the mission to leave. Despite assurances from the team's Lebanese escorts, the guard cocked his weapon to deny the team access. As the mission withdrew, the guard fired warning shots into the air. Access to Qoussaya was clearly denied to the team, which was therefore unable to verify Syrian withdrawal from that location. This incident was widely reported in the media and was the subject of a statement by the Secretary-General on 5 May.[1]

15. On 5 May, the mission was visiting the Deir Al-Ashayr area near the border with the Syrian Arab Republic in the east. The team noticed a military position, which turned out to be a Syrian battalion, apparently in Lebanese territory, according to the maps provided by both the Syrian and Lebanese military authorities. The team at once visited the location without escort. The Syrian commander (a Brigadier General) claimed that the position was inside the Syrian Arab Republic, pointing out a line of stone mounds in front of the location that allegedly marked the border. It should be noted that the Governments of the Syrian Arab Republic and Lebanon have not yet agreed the demarcation of their border and are currently considering the issue at the highest political level. Although border demarcation was not a task of the mission, the lack of a defined border in the Deir Al-Ashayr area meant that the team was unable to verify whether the Syrian battalion was in Syrian or Lebanese territory.

16. The team was also concerned that Syrian military forces rather than border guards were occupying a position close to the border. The Syrian military authorities in Damascus had informed the team that all military units had returned to their barracks in the Syrian Arab Republic as from 26 April 2005 and only border guards remained in the border area. The team leader sought clarification from the Syrian

[1] Press release SG/SM/9854, dated 4 May 2005.

military authorities on this point and he was informed that a lack of border guards had required the use of a military unit in the area.

17. On 10 May, the team visited a small valley in the area of Naame, 15 kilometres south of Beirut, where reports had indicated that Syrian military personnel or equipment might be found. The valley was a Palestinian-controlled area. The Lebanese military authorities contacted the Palestinians to ensure safe passage for the team to enter the valley. The team was met on arrival, escorted up the valley and invited to enter a tunnel that had been built into the side of the valley. Palestinian representatives indicated that the team were the first outsiders to enter the complex, regretted any misunderstanding at Qoussaya and afforded the team every assistance at Naame. The representatives assured the team that there were no Syrian troops or equipment in the position. The team carried out a short tour of the tunnel and verified this statement to the extent possible, before returning down the valley and departing.

18. By the end of the day on 10 May, the team had visited almost every single location in its database of information, omitting only a few unimportant sites.

IV. Observations

19. The activities of the mission were of great interest to the Lebanese people and were closely reported by national and international media. The reason was the link made between the verification and three major issues of concern: the assassination of Rafiq Hariri, the border demarcation issue and the presence of Palestinian armed elements.

20. The team noted the long-standing military cooperation between the Syrian and Lebanese armies, which continues today even after the withdrawal. Lebanese officers still travel to the Syrian Arab Republic under this programme of cooperation and it is possible that Syrian military officers may visit Lebanon.

21. In some of the locations previously occupied by the Syrian military intelligence, such as the Hotel Beau Rivage in Beirut, the Villa Jaber outside Beirut and the American School in the Tripoli area, cells were found where it was apparent that prisoners had been held.

V. Conclusions and recommendations

22. After travelling more than 1,500 kilometres in Lebanon and visiting 133 former Syrian troop and military intelligence positions, the team found no Syrian military forces, assets or intelligence apparatus in Lebanese territory, with the exception of one Syrian battalion deployed near Deir Al-Ashayr. Eleven former Syrian positions had already been taken over by the Lebanese army. The mission has therefore concluded, to the best of its ability, with the possible exception of the Deir Al-Ashayr area, the status of which is unclear (see below), that Syrian troops and military assets have been fully and completely withdrawn from Lebanese territory.

23. There is no border agreement between the Governments of the Syrian Arab Republic and Lebanon, with no clear demarcation line on the ground. As a result, the team was unable to verify whether the Syrian military unit in the Deir Al-Ashayr

area was in Syrian or Lebanese territory. The status of that unit will be clarified once the two Governments have concluded a border agreement.

24. The withdrawal of the Syrian intelligence apparatus has been harder to verify because intelligence activities are by nature often clandestine. The team visited all the locations formerly used by the Syrian military intelligence apparatus and found them empty. The team has therefore concluded, to the best of its ability, that no Syrian military intelligence personnel remain in Lebanon in known locations or in military uniform. But the team has been unable to conclude with certainty that all the intelligence apparatus has been withdrawn.

25. The team encountered numerous earthworks and defences formerly used by Syrian forces, particularly in the Bekaa valley. In most cases, the earthworks consisted of earth walls but the mission also found underground bunkers and troop trenches. It is recommended that the Lebanese authorities dismantle any earthworks and defences that are assessed to pose a risk to Lebanese civilians.

26. The mission was required to assess whether a more comprehensive verification mission would be required. The team believes that such a mission would only retrace this team's steps in Lebanon and would still be unable to verify the complete withdrawal of clandestine intelligence apparatus. It is therefore recommended that a further verification mission is not required at this stage.

27. The team would like to record its thanks and appreciation to the Governments and military authorities of the Syrian Arab Republic and Lebanon for the hospitality and support provided to the mission throughout its stay in the region. Without this support, the planning and execution of the mission in Lebanon would have been made considerably more difficult. The team would also like to record its thanks to the United Nations organizations on the ground for their administrative and logistic support, which was essential to the success of the mission.

(*Signed*) Elhadji Mouhamadou **Kandji**
Deputy Military Adviser,
Department of Peacekeeping Operations, Military Division
Verification team leader
New York, 23 May 2005

United Nations

S/2005/332

Security Council

Distr.: General
23 May 2005

Original: English

Letter dated 20 May 2005 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1244 (1999), I have the honour to convey the attached reports on the international security presence in Kosovo covering the periods from 1 to 31 December 2004 and from 1 to 31 January 2005 (see annexes).

I should be grateful if these reports could be brought to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex I

Monthly report to the United Nations on the operations of the Kosovo Force

1. This report covers the period from 1 to 31 December 2004.

2. As at 31 December 2004, the total number of troops in theatre was 17,170, including 2,788 troops from non-NATO countries.

3. There is no change in the status of partner/non-NATO country contributions.

Security

4. The general situation in Kosovo, though apparently calm, remains fragile and tense and is expected to remain so for the foreseeable future.

5. Electrical power failures were noted in several areas (5 in Kosovo Serb, 22 in Albanian areas) during December 2004. The province's inability to upgrade its infrastructure is blamed on lack of revenues, essentially because customers have failed to pay their bills.

6. The threat against KFOR remained relatively low throughout the month of December.

7. There were eight ethnically motivated incidents in December 2004, all against Kosovo Serbs.

8. In terms of organized crime, a total of 21 incidents were reported in relation to drug trafficking, illegal weapons finds and smuggling operations during the month of December. This is roughly the same as during November 2004. There was a slight increase in counterfeit currency cases and a slight decrease in drug-related crime.

9. As reported last month, KFOR still continues operations to secure the theatre, prevent ethnic violence and protect patrimonial sites. KFOR also remains vigilant to deter possible threats directed against international organizations and military bases. The NATO force continues to improve its crowd and riot control capabilities so as to be better prepared to counter a resurgence of violence. The possible indictment of the Kosovo Prime Minister, Ramush Haradinaj, may become a cause for future unrest.

Compliance by the Army of Serbia and Montenegro and the Ministry of Internal Affairs Special Police

10. No breaches of the Military Technical Agreement were reported during December 2004.

The Kosovo Protection Corps

11. The current membership of the Kosovo Protection Corps (KPC) remains at 3,028 active members, including 144 from ethnic minorities, of whom 35 are Serbs. The reserve personnel establishment list includes 1,809 members, 17 of whom are from ethnic minorities. The percentage of minority representation has decreased from 5.14 per cent in November to 4.72 per cent in December 2004.

12. During December 2004, the multinational brigades carried out 11 roll calls. The percentage of personnel absent without permission has decreased from 5.53 per cent in November to 3.73 per cent in December 2004.

13. The main training activity was a field training exercise, which was conducted on 7 and 8 December 2004 with the participation of 800 KPC members. The exercise focused on disaster relief support and search and rescue operations. The Government of Kosovo, the Kosovo Police Service, KFOR and UNMIK all participated.

Conclusion

14. Overall the situation in December was relatively calm but tense. Power outages posed a substantial problem for the local population.

Annex II

Monthly report to the United Nations on the operations of the Kosovo Force

1. This report covers the period from 1 to 31 January 2005.

2. As at 31 January 2005, the total number of troops in theatre was 17,264, including 2,788 troops from non-NATO countries.

3. There is no change in the status of partner/non-NATO country contributions.

Security

4. The general situation in Kosovo, though apparently calm, remains fragile and tense and is expected to remain so for the foreseeable future.

5. The main incident to report was the bomb attack against UNMIK police on 13 January 2005 in Prizren. An explosive device put under a police car caused the death of a Nigerian police officer. Police investigations are still ongoing and the reason for the attack is still unclear.

6. Electrical power failures continue to pose problems and could potentially lead to unrest.

7. The reported number of ethnically motivated incidents for January 2005 is eight, the same as in December 2004. Traditionally, the level of these incidents is low during winter months and there is a downward trend compared to the pattern of violence experienced this time last year.

8. There were no reported acts of violence or threats against KFOR.

9. In terms of organized crime, there was a total of 13 incidents related to drug, weapons, and other smuggling activities in January 2005. This is a decrease compared to December, which had witnessed 21 such incidents.

10. KFOR continues operations to prevent ethnic violence and protect patrimonial sites and remains vigilant to deter possible threats directed against international organizations and military bases. The NATO force continues to improve its crowd and riot control capabilities so as to be better prepared to counter resurgence in violence.

Compliance by the Army of Serbia and Montenegro and the Ministry of Internal Affairs Special Police

11. No breaches of the Military Technical Agreement were reported during January 2005.

The Kosovo Protection Corps

12. The current membership of the Kosovo Protection Corps (KPC) is 3,028 active members, including 144 from the ethnic minorities, of whom 35 are Serbs. The reserve personnel establishment list includes 1,809 members, of whom 17 are from the ethnic minorities. The percentage of minorities has increased from 4.72 per cent in December 2004 to 4.75 per cent in January 2005. Task Force 8 was created to stress the minority problem and to propose potential solutions from which a

campaign could be derived. Task Force 8 has begun visiting the recent graduates of the December initial entry training course. As part of a retention plan, the task force will visit each graduate at his/her place of work and determine whether the individual is in regular attendance, how long he/she has been in KPC, and whether he/she has any problems with pay or transportation.

13. During January 2005, the multinational brigades carried out 57 roll calls. The percentage of personnel absent without permission decreased from 3.73 per cent in December 2004 to 0.99 per cent during the reporting period.

14. The Chief of the KFOR Inspectorate for KPC drafted a letter to the KPC Commander, General Ceku, to express KFOR concerns over an increasing number of non-compliance cases (members with magazines fitted into their weapons).

15. Regular training was conducted according to the annual plan. More particularly, on 10 January 2005, six different courses were started: a management course, a leadership course, a computer course, an English course (levels 1 and 2), a basic training course (level 1), and a communication course. Ninety-six members of KPC attended from all pick-up zones.

Conclusion

16. The situation in Kosovo remains apparently calm but fragile and tense.

United Nations S/2005/333

Security Council

Distr.: General
23 May 2005

Original: English

Letter dated 19 May 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1284 (1999), which requires me to consult the Security Council and the Executive Chairman of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) on the appointment of suitably qualified experts as UNMOVIC Commissioners.

Susan F. Burk resigned from the College of Commissioners last March and I would like to propose the appointment of Stephen G. Rademaker to replace Ms. Burk.

I should be grateful if you would bring this matter to the attention of the Security Council.

(*Signed*) Kofi A. **Annan**

05-35507 (E) 230505

United Nations S/2005/334

Security Council

Distr.: General
23 May 2005

Original: English

Letter dated 23 May 2005 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 19 May 2005 (S/2005/333) concerning your proposal to appoint Stephen G. Rademaker as a Commissioner of the United Nations Monitoring, Verification and Inspection Commission has been brought to the attention of the members of the Security Council. They agree with the proposal contained in your letter.

(*Signed*) Ellen Margrethe **Løj**
President of the Security Council

05-35495 (E) 230505

United Nations S/2005/335

Security Council

Distr.: General
23 May 2005

Original: English

Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1244 (1999) of 10 June 1999, by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested the Secretary-General to report at regular intervals on the implementation of the mandate. It covers the activities of UNMIK and developments in Kosovo, Serbia and Montenegro, from 1 February 2005 to 30 April 2005.

II. Political assessment

2. My Special Representative, Søren Jessen-Petersen, has provided a technical assessment of progress against the standards for Kosovo, which is contained in annex I to the present report. His findings show continuing progress in the implementation of the standards and a continued commitment by the leaders of Kosovo to standards implementation. While there was a lull in some aspects of the standards implementation process during the change in the Government of Kosovo, the overall forward momentum begun in the prior reporting period was maintained. More remains to be done, however, as none of the eight standards has been entirely fulfilled and deficiencies remain in key priority areas.

3. Efforts to ensure the increased effectiveness, responsiveness and inclusiveness of the Provisional Institutions of Self-Government and political processes of Kosovo have resulted in noteworthy progress in some areas. The commitment of the political leadership has led to wider, more active efforts to achieve the institutional and governance reforms needed to improve the political and security climate and thus prospects for sustainable multi-ethnicity. The commendable manner in which the former Prime Minister, Ramush Haradinaj, resigned and voluntarily surrendered to the International Tribunal for the Former Yugoslavia upon being informed of his indictment on 8 March, and the calls for full respect of the rule of law made by him and by the other political leaders in Kosovo, were important demonstrations of the growing political maturity of the leaders of Kosovo.

4. The public statements made by the leaders of Kosovo were instrumental in ensuring that the situation remained generally calm throughout this delicate period. The Government in Belgrade also urged a peaceful response to the indictment and

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resignation. However, explosions that occurred near UNMIK headquarters, and bombs detonated in central Pristina as President Ibrahim Rugova's convoy passed, and in the building housing the headquarters of the opposition ORA party, were a cause for serious concern and demonstrated the continuing presence in Kosovo of elements willing to resort to violence.

5. The smooth transition to a new Government led by Prime Minister Bajram Kosumi following Mr. Haradinaj's resignation was accompanied by a renewed commitment to carry on the programme of the previous Government centred on standards implementation. The reconfirmed coalition of the Democratic League of Kosovo (LDK) and the Alliance for the Future of Kosovo (AAK) has ensured a measure of continuity in the Government's priorities and actions including, crucially, an ongoing commitment to progress towards fulfilment of the standards. Importantly, the Government has continued to emphasize and focus on those standards relating to sustainable multi-ethnicity, as agreed between the previous Government and my Special Representative late in 2004.

6. Tensions between the governing and opposition parties have intensified. The opposition parties sharpened their criticism of the Kosovo Assembly, alleging repeated violations of Assembly rules with the purpose of stifling open debate, and walking out of the Assembly proceedings on a number of occasions. While it is assessed that there was overall improved compliance with the Assembly's rules, there continued to be instances of decisions where the rules were not followed. My Special Representative has on several occasions urged the President of the Assembly to adhere to the rules fully and ensure that the Assembly is a venue for unfettered debate. The growing acrimony between the governing and opposition parties has also manifested itself outside government processes. The Democratic Party of Kosovo (PDK) presented UNMIK with a document alleging criminality by members of the Government, which is being investigated by UNMIK police. In this tense context, my Special Representative has urged the governing and opposition parties to work towards a Kosovo-wide consensus on issues vital to the future of Kosovo. It is obvious that a further deepening of political rancour would impede movement towards the initiation of the political process needed to determine the future status of Kosovo.

7. Kosovo Serb participation in the political process remained low at the central level. The only top central-level government position held by a Kosovo Serb was that of the Minister of Returns and Communities, who belongs to the Citizens Initiative "Serbia" (CIS), which received 2 of the 10 seats set aside for Kosovo Serbs in the Assembly. Despite more frequent statements in favour of participation in the Provisional Institutions, the leaders of the Serbian List for Kosovo and Metohija (SLKM) — the party that holds eight Assembly mandates — are apparently still awaiting a positive signal from Belgrade, and they have not so far occupied the positions within the Provisional Institutions held open for them. The SLKM representatives have pledged to join the working groups on decentralization and have said they would enter the Assembly and Government if those working groups were successful. At the same time, minority employment is rising in central Provisional Institutions amidst expanded recruitment activity, although the overall level remains below the target. In addition, Kosovo Serbs and other minorities are present in municipal institutions.

8. There is also encouraging progress in the area of direct dialogue on practical matters between Pristina and Belgrade following a hiatus of over 12 months, together with a declared willingness on the part of the political leadership in Belgrade to engage in this important process. A significant step forward on the crucial issue of cultural heritage in Kosovo was made with the signing by representatives of the Serbian Orthodox Church and the Provisional Institutions of a new memorandum of understanding on the reconstruction of Serbian Orthodox religious sites damaged during the riots of March 2004. Efforts by the international community in the area of restoration and reconstruction of cultural heritage in Kosovo, including through a donor conference, held in Paris on 13 May, are moving forward. Following an invitation to meet extended by President Boris Tadic of Serbia to President Ibrahim Rugova of Kosovo, my Special Representative has been working to arrange such a meeting.

9. Local government reform (decentralization) is of key importance to all of the population of Kosovo, including, in particular, its minority communities. This process has, however, seen delays owing to continuing controversy over initiatives in this area. The major opposition parties continue to oppose the Government-approved "working programme" on local government reform. This situation resulted in delays in a debate in the Assembly and in the nomination of the co-chairs of the envisaged working groups. Prime Minister Kosumi and the Minister of Local Government Administration have affirmed that pilot projects in five localities, including in two majority Kosovo Serb areas, would be implemented by June 2005. Progress in this respect has been slow, however, and political consensus in the Assembly is still being sought. There is a clear need to move forward rapidly with implementation. Achieving concrete results in the local government reform process will influence prospects for the political process to determine the future status of Kosovo.

10. Improvements in freedom of movement and a diminishing reliance of Kosovo minorities on escorts when travelling across majority areas are encouraging developments. An assessment of the current security situation by the Kosovo Force (KFOR) has led to the continued dismantling of KFOR units providing static protection of designated sites, which has been carried out without incident. The Government and most municipalities have enhanced their official, public support for returns, which has been coupled with an increased readiness on the part of representatives of the Provisional Institutions to condemn violence that might be ethnic in nature. While a growing number of municipalities have actively participated in promoting returns, and the first returns to an urban area occurred, overall numbers of returns remain very low and sustainability in some cases is uncertain, for economic reasons among others. One year after the riots of March 2004, more than 1,600 persons of the 4,100 displaced have not returned to their reconstructed homes — added to the tens of thousands already displaced since 1999 — and a significant proportion of compensation payments has not been made. Further official efforts in support of returns are essential.

11. There were encouraging steps forward in furthering and establishing the framework for the economic development of Kosovo. The privatization process progressed, and the enactment of an amended regulation on the Kosovo Trust Agency is expected to increase further the pace and scope of privatization. The establishment of legal frameworks for mining and for enabling municipalities to facilitate investment using land they control should spur further production and

investment. Activity aimed at the economic integration of Kosovo in the region continued. These ongoing efforts are intended to address the continuing difficult economic situation in Kosovo, including low income levels and high unemployment.

12. Work continues on the transfer to the Provisional Institutions of competencies which are not inherent attributes of sovereignty, taking into account reserved powers and responsibilities in areas of key importance for the implementation of the UNMIK mandate. My Special Representative promulgated a regulation formalizing the terms of reference for the three new Ministries established at the end of 2004, which are increasingly operational. UNMIK is also examining ways in which the functional engagement in reserved areas of the Provisional Institutions can be further developed. In carrying forward these efforts, the accountability and responsibility of the Provisional Institutions, and the delivery of essential services for all communities, must be ensured.

III. Observations

13. I am pleased to note that the Provisional Institutions have intensified their efforts to implement the standards. My Special Representative has reported that concrete steps forward are evident, and that the Provisional Institutions have made further good progress. There are also indications that the underlying significance and importance, as well as the form and implementation, of the standards have gained increased acceptance among the leadership and people of Kosovo. There is a growing recognition in Kosovo that sustained progress on the implementation of the standards is an essential precondition for advancing towards a process to determine the future status of Kosovo, in accordance with resolution 1244 (1999). I am encouraged by the demonstrable intent to move forward as quickly as possible to achieve this end.

14. None of the standards has been entirely fulfilled, however, and I am concerned that deficiencies remain in key priority areas of standards implementation. All standards are important and the focus on areas of particular importance to Kosovo minorities does not diminish the relevance of any of the eight standards. It is crucial that the representatives of the Provisional Institutions and, in particular, the Kosovo Albanian leadership recognize that implementation of the standards is not simply a test to be passed in order to move on to the next stage,.but that the standards are above all goals in and of themselves and measures of the political maturity of Kosovo and the willingness of its leaders and population to create the foundations for a sustainable multi-ethnic, democratic society in which all can live in dignity and without fear.

15. The continuing implementation of the standards over time will be central to the realization of the European perspective of Kosovo. Achieving the standards will, therefore, lead to a qualitative change in Kosovo society. While noteworthy steps forward have been taken, much remains to be done. More progress is well within grasp and is essential, and much work is still required in a number of critical areas.

16. I am encouraged by the public outreach by the leaders of Kosovo to the minority communities, and statements and commitments in support of returns. However, despite noteworthy breakthroughs, including the first returns to urban areas, the overall numbers of returns remain low and the process remains fragile.

Ensuring a climate for sustainable returns which centres on acceptable security, economic and property-related considerations remains a central challenge in Kosovo. The active and constructive participation of Kosovo Serb leaders at the central and local levels is of essential importance. Mutual trust and confidence among the Kosovo communities is the foundation for lasting security. To this end, Kosovo Albanian leaders and population must strengthen their efforts to reach out to Kosovo Serbs who, in turn, must demonstrate their concrete willingness to integrate into Kosovo society.

17. I am concerned that efforts to reform local government in Kosovo have seen delays. While not a standard, progress in decentralization is a key measure of the willingness of Kosovo to restructure governance at the local level in a way that is closer and more responsive to the needs of the population, and which accommodates legitimate minority interests. All communities and political factions should unite to achieve this important goal, which should go forward regardless of the future status of Kosovo.

18. Progress in Kosovo hinges on a constructive democratic dynamic between Government and opposition. However, the increased inter-party rancour and the violent incidents which may have been related to it are hampering the way forward. It is fundamental for a democratic society that the opposition is afforded the fullest scope to perform its important role; the opposition must in turn play that role responsibly. I join my Special Representative in calling on all the leaders of Kosovo to work constructively for the common good and to reject violence, no matter the motive or target.

19. The smooth and responsible manner with which the leaders and institutions of Kosovo have handled the recent delicate phase leading to a change in Government is encouraging. The fact that it took place in a generally calm situation is a reflection of the growing maturity of the Kosovo institutions. The recent spate of violent attacks is worrisome, however. It is crucial that any threats of violence or intimidation not detract us from our goal. It is the responsibility of all people in Kosovo to ensure that the work of extremists is not allowed to dictate the future course of Kosovo.

20. I welcome the offer by President Tadic to meet with President Rugova and I encourage both leaders to initiate a direct dialogue, which is essential to move the process forward. I also welcome the expressed intention of Prime Minister Kostunica and Prime Minister Kosumi to meet with each other. This dialogue should occur in addition to a dialogue between and among the Kosovo Albanian and Kosovo Serb leaders, in order to build an environment of mutual trust and confidence. I am also encouraged by the resumption of direct dialogue on practical matters between Pristina and Belgrade, which must continue to engage constructively for the benefit of all involved. It is important for the leadership of all communities to convey to their constituencies the importance of these initiatives.

21. In my recommendations to the Security Council of 17 November 2004 (S/2004/932, annex II), I stressed that achieving progress on the eight standards remains the basis of our policy and must be carried out in a dynamic and priority-based way within the overall framework of a comprehensive and integrated strategy, in order to give momentum and direction to the political process. Progress in all aspects of this strategy is essential for the success and sustainability of any future status process. Bearing this in mind, and having taken into careful consideration the

efforts made thus far by the Provisional Institutions in the implementation of the standards, I believe that a comprehensive review should be initiated this summer. It will be carried out in accordance with resolution 1244 (1999) and the relevant presidential statements of the Security Council. I intend to appoint a Special Envoy to conduct this review in the near future.

22. The comprehensive review should consist of consultations with the parties and the international community, and have a broad scope in order to assess the current situation and the conditions for the possible next steps in the process. It should look at the actual political realities as well as the formal preconditions for launching the future status process on the basis of continuing and effective progress towards implementation of the standards.

23. It should be clearly understood that the outcome of the comprehensive review is not a foregone conclusion. During and beyond the comprehensive review, the representatives of the Provisional Institutions and the political leaders of Kosovo will be expected to pursue and strengthen their efforts to implement the standards, and will continue to be assessed on this basis. Ongoing implementation of the standards now and in the future will be a crucial element of a smooth and orderly political process leading to the determination of the future status of Kosovo whenever that process may begin, and will be central to the sustainability of an eventual political settlement.

24. The unified and coordinated support of the broader international community, particularly key Member States such as those in the Security Council and the Contact Group within the framework of resolution 1244 (1999) is essential for the success of this common endeavour and for the work carried out by UNMIK under the guidance of my Special Representative. The signs of continuing international interest in and attention to Kosovo are welcome and essential to ensure consensus as we move forward, while it is recognized that it is the responsibility of the people of Kosovo and their representatives in the Provisional Institutions to ensure progress. I take note of the recent statement of the Contact Group that principles for a solution for the future status of Kosovo should exclude, inter alia, partition of Kosovo, union of Kosovo with any country or part of any country after the determination of status, and return to the situation before March 1999.

25. I would like to extend my appreciation to my Special Representative, Søren Jessen-Petersen, and to the men and women of UNMIK for the dedication and commitment to the values and objectives of the United Nations which they bring to their often difficult task. I would also like to extend my appreciation to KFOR, our partners within UNMIK — the European Union and the Organization for Security and Cooperation in Europe — and to the other organizations, agencies, contributors and donors for their commitment and valuable political and material support in implementing Security Council resolution 1244 (1999).

Annex I

Technical assessment of progress in the implementation of the standards for Kosovo

Prepared by the Special Representative of the Secretary-General for Kosovo, 30 April 2005

The reports that follow describe the main achievements in each standard and the priority standards goals challenges that remain.

Functioning democratic institutions: key achievements

1. The political institutions of Kosovo demonstrated deepening maturity by electing a new Government quickly after the resignation of the former Prime Minister, Ramush Haradinaj.

2. Minority community members participating in the Government increased to four (Kosovo Serb and Bosniak Ministers and Kosovo Egyptian and Turk Deputy Ministers). Three further positions (Minister, Deputy Minister and Assembly Presidency) reserved for Kosovo Serbs await nominations from Kosovo Serb political parties.

3. The Organization for Security and Cooperation in Europe reported notable improvements in Assembly compliance with its extant rules of procedure. A new formula distributed public funds to political entities proportionately to the number of seats held including reserved seats. Civil society continued to participate in the work of the Assembly through public hearings on four draft laws. Women participated in all Assembly Committees.

4. Codes of conduct for elected officials and civil servants, comprehensive Government rules of procedure (*priority*) and terms of reference for the new Ministries were adopted. All municipal assemblies have rules of procedure and their compliance was satisfactory.

5. Municipal minority employment increased: 15 (of 27) met or exceeded their targets; 5 exceeded 70% of target. The railway (15%), water-irrigation (18%), and waste (24%) utilities remained multi-ethnic. The Government initiated a Special Recruitment Campaign (*priority*) that reserves and advertises for minorities 103 central institution positions.

6. Twenty (of 27) municipalities achieved fair share financing targets in 2004. The remaining 7 achieved 90% of target. At least 25 are expected to achieve their targets during the next reporting period.

7. A draft law on languages is under discussion. Permanent Secretaries of Ministries and chief executive officers of municipalities were designated as responsible for language policy implementation. Units to oversee central and municipal implementation were established within the Ministries of Public Services and Local Government Administration respectively. Their terms of reference are likely to lead to comprehensive compliance reports and corrective action provisions (*priorities*). Language policy compliance was 100% in Central Assembly plenary sessions and Presidency meetings, and approached 100% in Municipality Assembly

meetings (except in the northern municipalities, and occasionally in Prizren). Official signs on municipal buildings were compliant or partially compliant in 65% of municipalities, and street, town and village signs were compliant or partially compliant in 60%. Over 500 road signs in the southern municipalities were replaced with signs in all official languages.

8. Training for judges and prosecutors, and the Government public awareness campaign, started on the Anti-Discrimination Law. The Provisional Institutions of Self-Government started discussing inequalities in service provision to communities and minority employment with public utilities, particularly transport.

9. The Law on Freedom of Association of Non-Governmental Organizations was adopted by the Assembly and awaits promulgation. A strategic plan for minority media (*priority*) was adopted by the Government.

10. Minority access to media compared favourably with access across the Balkans and much of Europe. Of 111 broadcast stations licensed, 39 mainly or exclusively served minority communities, 21 broadcast in at least two languages, 10 broadcast partly in Roma, and at least two for the Ashkali community. A new daily newspaper employed minority editorial staff and plans to issue a weekly edition in Serbian. A press code (*priority*), including clauses on hate speech, was endorsed by the editors of seven of the eight main Kosovo newspapers. Development of a press council continued. No cases of hate speech in the media were reported. All media sanctioned by the temporary Media Commissioner complied.

Functioning democratic institutions: priority standards challenges

11. New draft rules of procedure for the Assembly correcting the unacceptable provisions of the previous draft (*priority*) need to be adopted by the Assembly. The Assembly Committee on the Rights and Interests of Communities (*priority*) proposed no amendments to draft legislation. The Assembly Presidency needs to address remaining concerns, and complaints by the Opposition, over compliance with the extant rules of procedure including agenda handling, and must provide adequate time and opportunity for all parties to debate legislation and review the work of Ministers and institutions. The Law on the Family adopted by the Assembly needs revising for compliance with international instruments for the protection of women's human rights. Prime Minister Kosumi's decision to invite minority representatives to participate in legislative drafting working groups (*priority*) needs to be operationalized effectively.

12. Minority employment in the central institutions was 10.2% (up from 9.6%; 7% of senior positions); the target is 16.6%. The Special Recruitment Campaign needs to succeed (*priority*). Minorities need to be fully integrated across institutions, policy issues and seniorities. More effort is needed by municipalities that have not met their targets, particularly the seven that remain below 70% of target, and by all municipalities with regard to senior-level employment (negligible). More effort is needed by the Banking and Payments Authority (BPK) and some utilities: District Heating (12%), KEK (less than 1.5%), PTK (4%) and the airport (1.8%). Sub-component budget plans (*priority*) and a Government mechanism for monitoring fair share financing are still needed.

13. Enforcement of the civil service code of conduct needs to be strengthened. The Senior Public Appointments Committee needs to respect its rules of procedure. The Office of Gender Affairs needs to be established and operationalized. Ministries and municipalities need to publish annual reports and financial statements.

14. Full compliance with language policy is still needed (*priority*). The central monitoring units (*priority*) need to be operationalized. The new Ministries and eight municipalities need to establish Translation Units. Twenty-five municipalities need to install simultaneous interpretation equipment or specify adequate alternative arrangements. Defaced language compliant signs need to be replaced or repaired.

15. The law establishing the Independent Media Commission (*priority*) was adopted by the Assembly with provisions that risk compromising the independence safeguards. The strategic plan for minority media needs to be implemented (*priority*). The television service of Radio and Television Kosovo (RTK) devotes 8% of its air-time to minority broadcasting (the requirement is 15%; *priority*). The draft Law on RTK (which is largely in accordance with European norms of public service broadcasting and includes clear obligations to serve all communities) awaits adoption by the Government and the Assembly (*priority*).

16. Significant parallel structures continue to exist in 13 municipalities. Kosovo Serb demand for the services they provide should be reduced by the reform of local Government.

Rule of law: key achievements

17. The Provisional Institutions cooperated fully with the Tribunal. Former Prime Minister Haradinaj resigned his office immediately on notification of indictment, and surrendered voluntarily to the Tribunal 24 hours later. In his resignation statements, he called on the people of Kosovo to remain calm and respect the rule of law. Those calls were echoed by the President, Ibrahim Rugova, the acting Prime Minister, Ministers, Opposition leaders and many municipal Presidents and officials.

18. Local crime prevention councils (*priority*) operated in every municipality. Crime clearance rates remained broadly comparable for majority and minority victims (*priority*). Only four complaints of possible ethnic bias among judges and prosecutors were received (one ungrounded; three under investigation). OSCE raised no concerns over local judges' and prosecutors' conduct of cases related to the violence of March 2004. Both indicate that ethnic bias continued not to be a prominent factor in criminal investigations, prosecutions or judicial handling (*priority*).

19. Central and municipal political leaders' condemnation of serious crimes and encouragement to cooperate fully with the police (both *priorities*) increased markedly. Inter-ethnic crimes — KFOR figures indicate up to four (rare maximum) a week — were routinely condemned.

20. The Kosovo Police Service (KPS) continued to assume greater responsibilities (*priority*). Transition to KPS command continued on track: 7 police stations (total now 27 of 32) and the first regional command centre (Gnjilane) transitioned. Police training transition progressed to 80% of instructor, 90% of technical and support and 68% of management positions at the KPS school. A total of 240 KPS officers were deployed in specialized units (*priority*). KPS handled several demonstrations and

potentially sensitive events without incident, including the visit of the President of Serbia, Boris Tadic, in February. Within the new community policing programme, 251 international police officers deployed to address minority communities' security and perceptions. Witness protection and relocation schemes continued to function.

21. KPS and the Kosovo Corrections Service continued to be fully multi-ethnic (*priority*). Women represented 18% of the Corrections Service (comparing favourably with Western European norms) and 14% of KPS. KPS targeted recruitment efforts towards women and minorities, aiming for 25% intake levels for June 2005. Specific provisions on gender-based discrimination and sexual harassment were incorporated into new draft codes of conduct of judges, prosecutors and lay judges. All KPS and Corrections Service training included minority and gender issues. KPS training included domestic violence and anti-trafficking.

22. The draft law establishing the Kosovo Judicial Institute (*priority*) was endorsed at first reading by the Assembly. Training continued. Anti-discrimination, anti-trafficking and human rights were integrated into the continuous and initial legal education programmes. A Law on Legal Aid was drafted.

23. An action plan to implement the Anti-Corruption Strategy is in preparation. Two new indictments and six new pre-trial investigations were initiated for allegations of corruption and economic crimes.

24. An administrative direction implementing the prohibition on trafficking in persons was promulgated. The Interim Secure Facility continued supporting victims of trafficking.

Rule of law: priority standards challenges

25. Efforts to bring to justice those responsible for the violence in March 2004 (*priority*) need to achieve a successful conclusion.

26. Minority communities were 10.5% of judges and 9.4% of prosecutors. Women were 26.5% and 16.5% respectively. Kosovo Serbs remained underrepresented (5.2% and 2.3%; *priority*). Despite vigorous outreach efforts, including a meeting with the President of the Supreme Court of Serbia to seek encouragement to qualified Kosovo Serb judges and prosecutors, only 4 of 200 applicants were Kosovo Serbs. Factors discouraging applications include accrued pension and benefit rights in Serbia.

27. Full access to justice for minority communities in Kosovo remains to be achieved. Two further court liaison offices in Prilužje and Silovo are planned to open in May 2005 (taking the total to 7). In Srbica and Mališevo, access to courts for minorities remains impossible without police assistance.

28. Further efforts are needed to improve cooperation between the police and communities, including building minority confidence in KPS. Minority communities need to be able to communicate with their local police in their own languages.

29. The draft law on the Kosovo Judicial Institute needs to complete passage through the Assembly (*priority*). The draft Action Plan against Trafficking in Human Beings needs to be adopted. Three cases of witness intimidation were reported (two under investigation; one under prosecution). A police mechanism for

tracking attacks on police, judges, prosecutors and witnesses is needed. Transition of responsibility for investigating and prosecuting terrorist, organized crime and economic crime offences will be impeded by intimidation in relation to these crimes.

30. Further efforts to improve court administration and reduce backlogs are needed.

Freedom of movement: key achievements

31. Freedom of movement improved in every municipality except northern Mitrovica. Escorts were less necessary (*priority*). A questionnaire survey by international police officers in mid-April interviewed 185 minorities, of whom 82% were Kosovo Serbs, 8% Roma, 7% Ashkali and 3% other minorities. Of those interviewed, 92% said that they travelled outside their resident areas to other parts of Kosovo; of them, 8% used escorts and 9% United Nations transport. The remaining 83% used private or public transport. Only 3% (5 persons) said they were the victims of crime while travelling in the previous 6 months; 1 person reported that crime to the police.

32. Perceptions of security also improved. A total of 64% of those surveyed said that they were able to travel safely in Kosovo (up from 41% in March). Incidents particularly threatening perceptions of security were few: two of vandalism against mosques, one attempted burglary of an Orthodox priest's residence, three of damaged graveyards, and five crimes related to movement by minorities (including one attack against Kosovo Albanians). Condemnations by the Provisional Institutions of violence that could have been inter-ethnic in nature increased significantly.

33. An action plan is under discussion for improved integration of the transport system (*priority*). Eleven experimental lines (*priority*) are established or under consideration.

Freedom of movement: priority standards challenges

34. Ongoing efforts to increase freedom of movement are needed, including an end to, and zero tolerance of, acts that threaten it — whether directly or by intimidatory effect (see paras. 32 above and 44 below). Perpetrators of incidents in which freedom of movement is obstructed or threatened need to be brought to justice quickly (*priority*). Central and municipal political leadership needs to continue, including regular and strong statements urging full respect for freedom of movement and condemning all acts that threaten it, and supporting law enforcement action against such acts.

35. An integrated transport system remains a priority. The number of routes, and frequency of transport, to and from minority areas (*priority*) need to increase. Kosovatrans needs to hire more minority drivers and integrate them across its workforce (*priority*). Support for private bus companies operated by minority communities continues to be needed. More minority community members need to be licensed to certify vehicle roadworthiness to facilitate car registrations by minorities.

Sustainable returns and the rights of communities and their members: key achievements

36. The Government and most municipalities significantly increased official support for returns (*priority*), and undertook a wide ranging outreach programme (*priority*) designed to strengthen and support freedom of movement, returns, dialogue and tolerance building. Data is incomplete but at least 14 municipalities participated in visits to returns sites, visits of internally displaced persons to cemeteries, go-and-see visits or go-and-inform visits. The Prime Minister, Ministers and many municipal leaders actively engaged with internally displaced persons. For the first time, Ministers visited internally displaced persons and refugees in Kosovo, Montenegro and Macedonia, including joint visits by the Minister for Communities and Returns (a Kosovo Serb) and the Minister for Local Government Administration (a Kosovo Albanian). The Prime Minister and 23 municipalities (all Kosovo Albanian majority) adopted on 25 February a joint declaration urging the displaced to return, the majority population to accept and implement its special responsibilities towards minority communities, and the protection of property rights and release of illegally occupied property. The Minister for Local Government Administration wrote to the Municipal President of Kacanik warning of the Government's opposition to, and likely consequences of the Municipal Assembly's rejection of its municipal returns strategy (see para. 44 below). Ministers held direct dialogue with several local communities to overcome obstacles or resistance to returns. Returns experts consider that these actions will have continuing medium- and long-term impact.

37. The returns environment was also improved by increased standards delivery across most municipalities. Regular standards meetings of both Prime Ministers and municipal Presidents sustained efforts (northern municipality Presidents do not attend). Nineteen municipal returns strategies for 2005 (*priority*) were endorsed by municipal working groups or assemblies; all others (except Decani) were drafted. Twenty-six municipalities have municipal returns offices, many from minority communities.

38. Data is incomplete, but at least 14 municipalities, including some badly affected by the conflict and with large numbers of missing persons, such as Klina, have implemented or supported implementation of returns projects (*priority*) or implemented component parts thereof such as provision of needed infrastructure. Small numbers of urban returns (*priority*) occurred or were planned in seven municipalities. The first urban return by Kosovo Serbs took place in Klina with Prime Ministerial and Municipal Assembly President support. Authorities continued to provide timely documentation to all returnees. The Association of Kosovo Municipalities initiated an inter-ethnic dialogue programme with the support of CARE International.

39. The Government allocated the same level of funding for returns from the 2005 Kosovo consolidated budget as in 2004 (€10.5 million), and remained the largest direct donor for returns to Kosovo. An additional sum of €2.2 million was allocated from the consolidated budget for reconstruction of houses damaged or destroyed in March 2004. All central Ministries appointed returns focal points. Twenty-two (of 34) projects from the 2004 central Government returns strategy have been completed.

40. The Ministry of Communities and Returns and the Ministry of Local Government Administration agreed terms of reference and advanced their establishment (*priority*). The terms of reference include monitoring compliance with human and community rights and responding to violations.

41. Although spontaneous returns are not always recorded, UNHCR reported 139 spontaneous or facilitated returns from the Kosovo Serb, Roma, Ashkali, Egyptian, Bosniak and Gorani communities during the first quarter of 2005. UNHCR figures for internally displaced persons in displacement since March 2004 went down by 403 (to 1,662) over the same period. Although departure figures cannot be fully captured, they appeared to indicate a reducing number of departures from Kosovo. Local Crime Prevention Councils, improved freedom of movement and perceptions of security, and increased support by many municipalities all significantly increased the prospects for returns and a better quality of life for returnees. Returns experts expect to see increased returns (*priority*) in coming months.

42. Municipal community offices functioned everywhere with UNMIK support. Communities committees met monthly in 12 municipalities, met irregularly in 5, existed but did not meet in the reporting period in 3, and had not been formed in 4 others. Mediation committees (which meet as needed) met in 17 municipalities.

43. No pupil attending a mixed or shared school reported any form of harassment (*priority*). Education in minority languages (except Romani) continued to be available (*priority*).

Sustainable returns and the rights of communities and their members: priority standards challenges

44. Incidents continue to occur that undercut the efforts of the Government, municipalities and individuals to support sustainable returns by, and rights of, all communities (both *priorities*). During this period, these incidents included the erection of a banner in Pristina listing alleged suspects in the killing of 122 Kosovo Albanians in 1999. The banner — which was not condemned by public officials — could have been said to comprise hate speech and/or incite to violence against the listed individuals, and was removed by UNMIK. T-shirts were on sale in northern Mitrovica featuring Serbian Special Forces insignia and "Kosovo: We'll be back". The Municipal Assembly of Kacanik rejected its municipal returns strategy, arguing that Kosovo Serbs from Kacanik had committed crimes prior to their departure. New language policy compliant road signs were quickly defaced (by painting over Serbian names) in Malisevo and Gnjilane. Serbian media reports that the Government of Serbia discourages returns, and inaccurate media reporting of security incidents, reduce willingness to return and the confidence of Kosovo Serbs living in Kosovo to pursue productive and sustainable lives. Looting and vandalism of unoccupied reconstructed houses, and low levels of inter-ethnic crime, continued. All actors need to help strengthen conditions conducive to returns, the confidence of potential returnees to return, and of returnees to pursue productive and sustainable lives, and a climate where they can.

45. The Ministry of Communities and Returns needs to be structured and further operationalized (*priority*) with proper regard for personnel and budgeting procedures. A database of the displaced, and their needs prior to and on return, is still needed. The Government still needs to assume responsibility for humanitarian

assistance to returnees. A central-level 2005 returns strategy and a programme of action on communities and returns need to be adopted and implemented (both *priorities*). The symbolic importance of the first urban returns needs to be built upon. Municipal returns strategies and structures need to be further operationalized and integrated into municipal and community development. Women's representatives need to be involved in all levels of the development and implementation of returns, reconciliation and dialogue strategies.

46. Reconstruction of houses damaged or destroyed during March 2004 needs to be completed (*priority*), including the additional houses identified during the last reporting period (for which funding is needed). Quality concerns need to be addressed. Looting and vandalism of reconstructed houses must stop. Payments have been made to 180 (up from 12) of 338 eligible beneficiaries of compensation for secondary buildings. Files were completed for 567, and payments made to 415 (of 634 eligible) beneficiaries of start-up assistance of €2,000.

47. Job creation and income generation remain areas of significant concern for all Kosovans including minorities and returnees. Housing stock development is needed to meet the accommodation needs of all people, including those whose former homes were not legally recognized or documented. It remains difficult for returnees and internally displaced persons to participate fully and equally in the economy. Further effort is needed by central and municipal authorities to ensure non-discriminatory access to basic services, affordable housing and economic opportunity.

48. Effective remedies for, sanctions against, and other legal mechanisms to counter discrimination are needed on the basis of the Anti-Discrimination Law (*priority*). Greater engagement of the Provisional Institutions is needed in reporting under the Framework Convention for the Protection of National Minorities. Effective monitoring and protection of human, community and minority rights (*priority*) by central and municipal Government are needed.

Economy: key achievements

49. Five pieces of basic economic legislation were promulgated. Eight (of 18) laws and regulations required are in place, nine are in the legislative process (one has not been started). A regulatory framework for mines and minerals conforming to European industry standards was established, and a Regulation adopted establishing an Independent Commission for Mines and Minerals, opening the way for investment in an important economic potentiality.

50. The 2005 Kosovo consolidated budget satisfied all conditions for promulgation (*priority*). A total of 24% of the budget was allocated to public investment (21% in 2004). The 2006 budget development process (*priority*) was launched ahead of schedule. The Government instructed spending agencies on compliance with IMF recommendations, particularly reducing recurrent expenditure. Government recruitment was frozen except for minority hires (to meet the minority employment target). 2006 sector spending plans (*priority*) are under discussion. The medium-term expenditure framework is being finalized. The Government monitored compliance with the Law on Public Financial Management and Accounting (*priority*); reporting followed mandated timelines. The Government

promulgated a system for monitoring spending agencies' expenditures, imposing fiscal discipline and ensuring efficient allocation of expenditures.

51. Institutions and services operating in the economic sphere were strengthened (*priority*). The Ministry of Finance and Economy established divisions for public loans and relations, debt management, and identification and assessment of development projects. Projects to build capacity continued (for public investment) or were planned (for other capacities of the Ministry). Twenty-seven municipalities developed local economic development strategies; 12 were endorsed by municipal assemblies. Legal provision was made for municipalities to grant 99-year leases for municipal land. The Anti-Corruption Law is under revision. Work began to create an Investment Promotion Agency (*priority*). A regulation is in place guaranteeing the independence of the BPK Governing Board; no Board member had political affiliations and none were shareholders of financial institutions (*priority*). Civil society institutions representing all communities participated in economic policy advice mechanisms (*priority*), through such forums as the Advisory Council on Small and Medium Enterprises, and a working group on private sector development. Eight vocational training centres across Kosovo offered training in 30 professional profiles. One third of trainees were women. The Statistical Office of Kosovo started implementing an action plan for strengthening collection and dissemination of economic statistics, and continued building capacity through training and information technology development. Confidence in the banking system continued increasing (deposits and savings rose by 35% in 2004).

52. Privatization accelerated: 32 sales contracts (from first-third waves) were ratified; bids were received for 21 (fourth wave) new companies. The Kosovo Trust Agency (KTA) Board met informally on 31 March. Preparations were completed for restructuring five publicly-owned enterprises (KEK, PTK, the airport, the railway and District Heating). Audited accounts for publicly-owned enterprises were published on the KTA website.

53. The Kosovo Customs Service remained fully multi-ethnic (*priority*). Tax Administration of Kosovo offices operated in all five regions of Kosovo. In addition to two Tax Administration offices already established in minority areas (*priority*), an information office opened in the Kosovo-Serb-majority town of Gracanica. Tax compliance indicators continued to improve. Government procurement announcements were published in all official languages.

54. Negotiations on free trade agreements continued with Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia. A memorandum of understanding was signed for EBRD lending. Negotiations were finalized for European Investment Bank operations in Kosovo.

Economy: priority standards challenges

55. More action is needed over disputes between some municipalities and KTA over control of socially owned land. No plots were returned to socially-owned enterprise control over the period. A total of 70% of potential tenders for new companies are hampered by cadastral problems.

56. Institutions need further strengthening. Government efforts need to be intensified, broadened and sustained well into the future for institutions and

appointments to be effective — and also independent (where necessary) and compliant with international standards. The Anti-Corruption Law needs to be finalized and adopted and an Anti-Corruption Agency established in accordance with European standards (*priority*). The Independent Tax and Customs Review Board (*priority*) is unable to manage the backlog of appeals. The Tax Administration continues to have difficulty administering the tax system in the three northern municipalities. The Provisional Institutions need to propose independent Kosovan members meeting the appointment requirements for the Energy Regulatory Board and the Mining Commission.

57. Further capacity-building is needed on secondary legislation. Budgetary implications of new legislation need to be considered at the drafting stage. More effort is needed to encourage women to participate in business and the skilled labour force.

Property rights: key achievements

58. The central-level inventory of property-related legislation, design of the database for its dissemination and updating, and the municipal-level inventory (except the three northern municipalities) approached completion. The Ministry of Environment and Spatial Planning created a task force to draft a legislative assessment and action plan (*priority*). Promulgation of a Regulation on the allocation of socially-owned immovable property managed by municipalities laid the foundations for more effective municipality efforts to regularize informal settlements (*priority*) and provide social housing. The draft Law on Agricultural Land was approved at first reading by the Assembly.

59. The Ministry of Environment and Spatial Planning approved 10 (total now 16 of 18) administrative instructions required to implement the Law on Spatial Planning (not all adequately reflected the requirements of informal settlements, illegal construction and gender). A system for surveying, valuing and compensating for property rights infringements by authorities is under development.

60. Political leadership against illegal occupation and use of property increased markedly through statements by the former and current Prime Ministers, Ministers and municipal leaders. A working group was created to develop a public information campaign on illegal occupation and use, illegal construction and informal settlements.

61. The Government developed plans for a new data collection system to help protect property rights by tracking court-adjudicated illegal occupation/repossession claims, their execution, cases of illegal occupation sanctioned/reported to prosecutors, and actions by municipalities including granting construction and other permits to legal rights holders only (*priority*). Work started on revising the Kosovo Police information system to monitor enforcement and provide redress in property-related cases.

62. There was no evidence of ethnic bias in either property-related court decisions or their execution (*priority*). The adjucation rate of claims was 31.4%, with comparable rates for Kosovo Albanians (32.5%) and minorities (26.5%). Over this period, cases were received and adjudicated at the same rate indicating that, although additional resources will be needed for the backlog and stayed cases, the

courts handled the new caseload. Court efforts to increase execution rates of their decisions increased: requests for police support rose ninefold, to 78 (74 granted). Municipal requests for police support rose from 2 to 31 (15 granted). Police responded positively to all 115 requests of the Housing and Property Directorate (HPD) for eviction support.

63. All except the three northern municipalities continued successful manual registration of the immoveable property rights register, and received all subsidiary instruments and training for all Municipal Cadastral Office staff (*priority*). The pilot programme for digital registration in five municipalities succeeded. The Kosovo Cadastral Agency completed the inventory of subsidiary instruments for implementation of the property rights registry; remedy mechanisms functioned and instruments are in place to ensure accountability. Two formal requests were made by UNMIK to the Government of Serbia for access to relevant property records (*priority*) without positive response.

64. Central-level social housing guidelines were drafted and are under revision to include positive measures for women and minority communities.

Property rights: priority standards challenges

65. Protection of property rights in Kosovo needs to be strengthened significantly and quickly.

66. Legislation needs to be coherent, consistent and compliant with international human rights and European standards. The Law on Real Rights needs to be reviewed. The Law on Housing remained suboptimal. The Law on Inheritance needs a gender equality perspective.

67. Repossession of property by rightful owners needs to increase. Repossession of HPD-adjudicated properties was 4.15%. Many successful claimants withdrew their claims or chose to place properties under HPD administration (up 295 to 3,200). Of repossessed properties, 17.7% (up from 14.2%) were released voluntarily. More public support of the Provisional Institutions for repossessions, and appeals to illegal occupants — including public officials and employees — to release property immediately, are needed. A total of 18,146 property-related cases filed in 2004 (largely to comply with the 5-year statute of limitations on 1999 conflict-related damages) were stayed at the request of the UNMIK Department of Justice and will remain stayed until adequate resources are available to adjudicate them. Taking these into account, the backlog of property-related cases in the courts was 6,932 (6.7% more than in 2004). Court and municipality efforts to increase execution rates need to continue and increase further (34% of required execution procedures were completed).

68. Systematic municipality efforts are needed to prevent and sanction illegal occupation and use of property (*priority*) including private property, and illegal construction. Public campaigns against both are needed. Municipal courts must not validate illegal sales. Consolidated guidance on approaching cases of suspected illegal occupation would help police. The Cadastral Agency needs to increase efforts to distribute subsidiary instruments, and provide training, to the northern municipalities (*priority*). The northern municipalities need to increase efforts to cooperate with the Cadastral Agency.

69. Informal settlement regularization (*priority*) remained blocked by the absence of a situational analysis (*priority*), and needs to progress. Special efforts are needed to resolve urgent informal settlement issues in the Mitrovica and Pec municipalities. Only Istok considered measures to regularize settlements and create security of tenure for displaced inhabitants (*priority*).

70. An effective system for resolving disputes over agricultural and commercial property, and plans for transferring HPD files and properties under administration to Kosovo institutions, are needed.

Cultural heritage: key achievements

71. An action plan was drafted for cooperation with the Council of Europe on cultural heritage, including joint elaboration of a Heritage Policy 2006-2010 on preservation of cultural heritage and capacity-building for cultural institutions. A public awareness campaign started on the importance of the cultural heritage sites of all Kosovo communities.

72. The inventory of cultural heritage sites (*priority*) approached completion (90% of fieldwork in all 30 municipalities). Significant progress was made in inclusion of Orthodox sites in all municipalities. Work started to publish a catalogue of all monuments and heritage sites, and continued on a priority intervention list of 25 archaeological and architectural sites (Orthodox and Islamic) for restoration (the sum of €200,000 was allocated from the consolidated budget). An amount of €4.2 million was again allocated from the consolidated budget for initial reconstruction of Serbian Orthodox sites damaged in March 2004 (*priority*). A new memorandum of understanding (including a five-member committee to manage the reconstruction process) was signed by the Patriarch and the Government.

73. A special minority recruitment drive increased minority employment (*priority*) to 14.7% in the Ministry of Culture, Youth and Sports, 22.3% in the Cultural Heritage Department, 3.1% in the central-level cultural institutions, and 11.1% in the regional level cultural institutions.

Cultural heritage: priority standards challenges

74. The draft law on cultural heritage (*priority*) was rejected by the Assembly. Kosovo Serb participants are being sought for the working group. The Turkish community is being consulted.

75. I have designated the Decani Canyon a specially zoned area to ensure preservation of the monastery, the only UNESCO world heritage site in Kosovo, and the unique natural heritage of the Canyon itself. I will work with the Provisional Institutions to encourage long-term economic and spatial planning for the wider area, which will make maximum use of its unique potential, including for ecotourism and parklands.

Dialogue: key achievements

76. The direct dialogue with Belgrade resumed (*priority*). The Working Group on Missing Persons met in Belgrade on 16 March and is scheduled to meet again on 9 June. The Government of Serbia accepted my proposal to restart the working groups on energy (preparations being facilitated by the European Commission), returns (scheduled for 12 May, facilitated by UNHCR), and eventually transport and telecommunications.

77. Additional bilateral agreements were concluded, including on medical/dental university education with Albania and the former Yugoslav Republic of Macedonia. Participation in bilateral and regional meetings, including meetings held in Kosovo, continued, including with the former Yugoslav Republic of Macedonia and a visit to Kosovo by the Serbian Deputy Minister of Social Affairs in cooperation with the Kosovo Ministry of Labour and Social Welfare. The national coordinators for the European Union Charter of Small Enterprises met in Pristina, hosted by the Kosovo Ministry of Trade and Industry, from 27-29 April.

Dialogue: priority standards challenges

78. The main challenges for the Provisional Institutions in this standard are to secure the training and expertise needed for effective negotiation, and to maintain the support of the people of Kosovo for dialogue. Both Prime Minister Haradinaj and Prime Minister Kosumi made clear their openness to dialogue throughout the reporting period. This leadership will continue to be needed.

Kosovo Protection Corps: key achievements

79. The Kosovo Protection Corps (KPC) continued to comply with the rule of law (*priority*), act in accordance with its mandate as a civilian emergency organization (*priority*) and make significant additional standards efforts. It played a key role supporting stability through potentially destabilizing political events during the reporting period.

80. A vigorous minority recruitment and retention campaign (*priority*) continued. KPC started developing and implementing trilingual barrack signs, billboards, leaflets and monthly newsletter; a trilingual website; an Office for Communities; a Translation/Interpretation Unit; a media campaign; a basic training course in Serbian; civil reconstruction and humanitarian projects in minority areas; logistical support to vulnerable members of minority communities; and meetings with Kosovo Serbs and other minority communities, municipalities, non-governmental organizations, international organizations and others.

81. The formation of the Civil Protection Brigade (*priority*) to consolidate resources and enable KPC to deliver more focused and efficient civil emergency response throughout Kosovo progressed well.

82. The Kosovo Protection Corps undertook additional tasks (*priority*), including monitoring munitions dumps, public ceremonial duties, and assisting in the dignified transport of mortal remains through Kosovo. Responsibility for explosive ordnance disposal response is scheduled to transfer from KFOR in May. Following

the KPC offer to support relief efforts in South-East Asia following the tsunami, agreement was reached in principle that multi-ethnic KPC teams could deploy under a United Nations umbrella to future emergency operations as agreed by the host country.

83. The Disciplinary Code was reviewed. Efforts to develop training capacity continued.

KPC: priority standards challenges

84. KPC recruitment and retention of minorities remains a priority. A total of 161 (of 3,022, 5.3%) minorities participated actively, including 31 Ashkali, 18 Bosniak, 8 Egyptian, 1 Goran, 9 Croat, 14 Muslim, 2 Roma, 48 Serb and 30 Turk. Significant obstacles remain, including opposition from Belgrade and local Kosovo Serb leaders, intimidation from Kosovo Serb communities of those choosing to join KPC and insufficient funding.

85. Opening the KPC standard Working Group to international participation should increase international political and financial support (*priority*), without which KPC efforts to complete this standard and fulfil the civilian emergency mandate will be hampered. Standards priorities for funding include essential civil emergency equipment and specialist training; further minority recruitment initiatives; implementation of civil projects in minority areas to build support from, and trust between, communities; formation of the Civil Protection Brigade; planned demining programmes; and further professionalization and restructuring. Efforts to develop training capacity need to continue (*priority*).

Annex II

A. Composition and strength of the police component of the United Nations Interim Administration Mission in Kosovo as at 30 April 2005

Country	*Number*	*Country*	*Number*
Argentina	122	Malaysia	12
Austria	29	Mauritius	0
Bangladesh	78	Netherlands	1
Belgium	0	Nepal	43
Brazil	3	Nigeria	51
Bulgaria	51	Norway	23
Cameroon	0	Pakistan	197
China	19	Philippines	87
Czech Republic	9	Poland	113
Denmark	23	Portugal	11
Egypt	1	Romania	182
Fiji	30	Russian Federation	109
Finland	7	Senegal	0
France	54	Slovenia	14
Germany	257	Spain	15
Ghana	35	Sweden	36
Greece	17	Switzerland	6
Hungary	10	Tunisia	0
India	293	Turkey	207
Italy	60	United Kingdom of Great Britain and Northern Ireland	92
Jordan	176	United States of America	293
Kenya	28	Ukraine	211
Kyrgyzstan	5	Zambia	22
Lithuania	8	Zimbabwe	35
Malawi	8		
Total			**3 083**

B. Composition of the Kosovo Police Service as at 30 April 2005

Category	*Percentage*	*Number*
Kosovo Albanians	84.69	5 283
Kosovo Serbs	9.27	578
Other ethnic minority members	6.04	377
Total		**6 238**
Men	85.83	5 354
Women	14.17	884

Annex III

Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo as at 30 April 2005

Country	*Number of liaison officers*
Argentina	1
Bangladesh	1
Belgium	1
Bolivia	1
Bulgaria	1
Chile	1
Czech Republic	1
Denmark	1
Finland	2
Hungary	1
Ireland	4
Italy	1
Jordan	2
Kenya	1
Malawi	1
Malaysia	1
Nepal	2
New Zealand	1
Norway	1
Pakistan	1
Poland	1
Portugal	1
Romania	1
Russian Federation	2
Spain	2
Ukraine	2
United Kingdom of Great Britain and Northern Ireland	1
Zambia	1
Total	**37**

Map No. 4133 Rev. 19 UNITED NATIONS
May 2005

Department of Peacekeeping Operations
Cartographic Section

United Nations S/2005/335/Corr.1

Security Council

Distr.: General
26 May 2005

Original: English

Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

Corrigendum

Annex I, paragraph 36, line 9

For Macedonia *read* the former Yugoslav Republic of Macedonia

05-36123 (E) 260505

United Nations S/2005/336

Security Council

Distr.: General
24 May 2005

Original: English

Letter dated 23 May 2005 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council

On 26 March 2004, the Security Council adopted resolution 1534 (2004). In its resolution, the Security Council requested each Tribunal to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the completion strategy of the respective Tribunal, explaining what measures have been taken to implement the completion strategy and what measures remain to be taken.

After consulting with the Prosecutor and in conformity with the resolution, I am pleased to submit to you a revised version of the completion strategy of the International Criminal Tribunal for Rwanda, containing the assessment requested (see enclosure).

(*Signed*) Erik **Møse**
President

05-35620 (E) 020605

Enclosure

Completion strategy of the International Criminal Tribunal for Rwanda

Summary

This document outlines the Completion Strategy of the International Criminal Tribunal for Rwanda (ICTR), based on the information available as of 23 May 2005. It takes into account the deadlines set in Security Council resolutions 1503 (2003) and 1534 (2004).

Trials of twenty-five persons are completed. Cases involving twenty-five accused are in progress. Consequently, the number of persons whose trials have been completed or are in progress is fifty. Sixteen accused are awaiting trial. The Prosecutor intends to transfer the cases of five detainees to national jurisdictions. The trials of the remaining eleven detainees will start from the second half of 2005 onwards, depending on Trial Chamber and court room availability.

The Prosecutor will focus on the accused bearing the greatest responsibility for the crimes committed in 1994. Fourteen indicted persons are still at large, of whom the Prosecutor intends to transfer four to national jurisdictions for trial. The Prosecutor has recently completed investigation against sixteen suspects in respect of the genocide. The files involving eight of these persons are now closed because of insufficient evidence, whereas eight indictments in respect of the other eight suspects are being submitted for confirmation. The Prosecutor intends to request the transfer of four of these indictments to national jurisdictions for trial. However, the number of persons brought to trial at the ICTR may be less than fourteen (ten indictees and four suspects whose indictments have been submitted for confirmation), as some of these persons may be dead, and others may never be arrested.

It is estimated that the cases involving the twenty-five accused whose trials are currently in progress will be completed from 2005 onwards. Trials of the maximum of fourteen persons at large will commence in 2007 and 2008. On the basis of the information presently available, it is estimated that by 2008, the Tribunal would have completed trials involving sixty-five to seventy persons.

I. Introduction

1. The present document contains an up-dated and revised version of the ICTR Completion Strategy as of 23 May 2005. It takes into account Security Council resolutions 1503 (2003) and 1534 (2004), adopted on 28 August 2003 and 26 March 2004, respectively. The document has been progressively elaborated based on contributions from the President, the Prosecutor, and the Registrar. The basis for the consultations between these three organs was originally a document entitled "Completion Strategy of the Office of the Prosecutor", which contained developments as of 29 April 2003.[1] The present document, which is the fifth report on the Completion Strategy, is based on revised information provided by the Prosecutor and developments in 2005.[2] Revised and updated reports on the ICTR Completion Strategy will be submitted in conformity with Resolution 1534 (2004).

2. It is recalled that the first accused was transferred to Arusha in May 1996. Since the first trial started in January 1997, the ICTR has handed down nineteen judgements involving twenty-five accused. Of these, twenty-two were convicted and three acquitted. Six of these convicts are presently serving their sentences in Mali. The total output of the second mandate (1999-2003) amounts to nine judgements involving fourteen accused. This represents a doubling of the number of accused that were tried, when compared to the first mandate (1995-1999). So far in the third mandate (2003-2007), the Tribunal has commenced ten trials involving fifteen accused and delivered four judgements involving four of these accused. The total number of judgements rendered by the ICTR thus far is set out in Annex I.

3. In addition to the twenty-five accused whose trials have been completed, twenty-five detainees in the United Nations Detention Facilities in Arusha are involved in nine trials. Five of these trials are multi-accused cases and very voluminous: the Butare case (six accused), the Military I case (four accused), the Government case (four accused), the Military II case (four accused) and the Karemera *et al.* case (three accused). Four trials are single-accused cases. The Simba trial commenced on 30 August 2004, and the parties have closed their respective cases. The Seromba trial started on 20 September 2004 and the Prosecution has closed its case. The Muvenyi trial started on 28 February 2005. Rwamakuba has recently been severed from the Karemera *et al.* case and he will be tried alone. Further details are

[1] A first version of the ICTR Completion Strategy was submitted to United Nations Headquarters on 14 July 2003. That document was prepared notably within the context of General Assembly resolution 57/289 (2003) para. 15 (a), which provided that the proposed budget of the ICTR for 2004-2005 should include "detailed information as to how the resources requested for the biennium would support the development of a sound and realistic completion strategy". A second version of the ICTR Completion Strategy was submitted to United Nations Headquarters on 29 September 2003. This document formed the basis of the request to increase the number of *ad litem* judges sitting "at any one time" from four to nine. By resolution 1512 (2003), the Security Council granted the request. The third version of the document was submitted to the President of the Security Council on 30 April 2004 and formed the basis of the assessments provided by the ICTR President and Prosecutor during the Council's meeting on 29 June 2004. On 19 November 2004, the ICTR submitted the fifth version of its Completion Strategy, which was considered by the Security Council on 23 November 2004.

[2] Following his first address to the Security Council in October 2003, the new ICTR Prosecutor, Mr Hassan B. Jallow, reviewed all the cases that are not currently on trial, with a view to determining which cases could reasonably be completed within the time frame set by the Security Council in Resolution 1503. The document dated 28 February 2004, entitled "Completion Strategy of the Office of the Prosecutor", was the result of this review.

given below (see II and III). Consequently, the total number of accused whose trials have been completed or are in progress is fifty.

4. Of the sixteen detainees awaiting the commencement of their trials, the Prosecutor intends to transfer five to national jurisdictions. The remaining eleven detainees will have their cases heard when the Tribunal's capacity so allows (see paras. 13-15 and 30).

5. Fourteen indictees are still at large. The Prosecutor intends to transfer four of these cases to national jurisdictions for trial (see para. 31). Some of these accused may be dead, whereas others may never be found. The actual number of these persons brought to trial at the ICTR may therefore be less than ten. As part of the Completion Strategy, the Prosecutor has formulated a more aggressive programme for tracking and apprehension of fugitives. The Tracking Team Section within the Investigation Division is being re-organised and strengthened. The Prosecutor has also visited a number of Member States of the United Nations with a view to securing their political support and cooperation for the arrest and transfer of fugitives.

6. Following investigation of sixteen suspects at large, the files of eight persons have been closed because of insufficient evidence. The Prosecutor is submitting eight new indictments, involving the remaining eight suspects, for confirmation, some four months ahead of schedule (see para. 32).

7. The Prosecutor considers that approximately forty suspects could be tried in national jurisdictions. He is currently engaged in discussions with some States for this purpose and has already transferred fifteen cases to Rwanda. In the event that it is not possible to transfer some of these cases to national jurisdictions, the Prosecutor will return to the Security Council with alternative proposals (see VI).

8. Security Council resolution 1503 (2003) provides that all work of the ICTR and the International Criminal Tribunal for the Former Yugoslavia (ICTY) shall be completed by 2010. It is difficult at this stage to indicate a completion strategy for the ICTR Appeals Chamber, as it is linked to the ICTY completion strategy. It is recalled, however, that all ICTR judgements except two have been appealed. At present, six judgements involving ten accused are on appeal (Niyitegeka, the Media case, Kamuhanda, the Cyangugu case, Gacumbitsi and Ndindabahizi). It is anticipated that the Appeals Chamber's already heavy workload will in all likelihood continue to increase. It should also be noted that appeals are normally lodged by both (in multi-accused cases all) parties. Therefore, the real number of appeals is much higher than the number of judgements on appeal. As the work load of the Trial Chambers decrease, the focus will shift to the Appeal Chamber where a drastic increase in work is anticipated. This increase is further compounded by the fact that the Appeals Chambers considers ICTY appeals as well. There will, at some stage, be a need to increase the number of judges at the Appeals Chamber if there are to be any reasonable prospects of completing the appeals by 2010. This will require an amendment of the Statute.

II. Activities in Chambers

9. On 3 December 2003, *Trial Chamber I* delivered judgement in the so-called "Media case". It involved three accused (Barayagwiza, Nahimana and Ngeze) and was the most voluminous case heard by that Chamber during the second mandate (1999-2003).

Originally, the Media trial was being conducted contemporaneously with the preparation of judgement in the Bagilishema case, which was delivered on 7 June 2001. It was twin-tracked with the trial of Gérard and Elizaphan Ntakirutimana which began on 18 September 2001 and concluded with the judgement on 19 February 2003. The Media case was then twin-tracked with the Niyitegeka trial, which started on 17 June 2002 and concluded with judgement on 16 May 2003.[3] Following the commencement of the third mandate in 2003, Trial Chamber I was reconstituted and has been hearing the continuation of the Military I case (Bagosora, Kabiligi, Ntabakuze and Nsengiyumva), transferred from the previous Trial Chamber III. The Prosecution closed its case in September 2004 after having called eighty-two witnesses, and the Defence case started in April 2005. Trial Chamber I has also conducted the Ndindabahizi trial (from 1 September 2003), in which judgement was delivered on 15 July 2004, and the Simba trial (from 30 August 2004), where the parties closing arguments are scheduled for July 2005.

10. *Trial Chamber II* was engaged in three trials concurrently during the second mandate. Judgement in the Kajelijeli trial was rendered on 1 December 2003. The Kamuhanda trial concluded with judgement on 22 January 2004. Particularly voluminous is the Butare trial. It involves six accused, which is the largest number or accused tried jointly before the ICTR (Nyiramasuhuko, Ntahobali, Nsabimana, Nteziryayo, Kanyabashi and Ndayambaje).[4] In the third mandate, following the delivery of judgements in the Kajelijeli and Kamuhanda trials, Trial Chamber II has given priority to the completion of the Butare trial, and the Prosecution closed its case after having called fifty-nine witnesses. The Defence commenced its case on 31 January 2005. The Trial Chamber also commenced trial in the Government case, involving four government ministers (Casimir Bizimungu, Justin Mugenzi, Jerome Bicamumpaka and Prosper Mugiraneza), and is approaching the end of the Prosecution case. On 20 September 2004, the Chamber commenced the Military II trial, which is still at an early stage.

11. *Trial Chamber III* heard three trials contemporaneously during the second mandate. Judgement was given in the Semanza case (one accused) on 16 May 2003. The Cyangugu trial with three accused (Ntagerura, Bagambiki and Imanishimwe) concluded with judgement on 25 February 2004. On 2 April 2002, the Chamber also started the Military I trial and heard evidence over thirty-two trial days. Following the reconstitution of the Chambers in early June 2003, this case was transferred to Trial Chamber I (see para. 9 above). In the third mandate, Trial Chamber III has heard the Gacumbitsi trial (from July 2003), where judgement was delivered on 17 June 2004, and the Muhimana trial (from March 2004), where judgement was delivered on 28 April 2005. The Karemera *et al.* case commenced on 27 November 2003. Following the Appeals Chamber's decision of

[3] "Twin-tracking" implies that two trials are heard in consecutive slots, for instance according to the following pattern: Trial A five weeks, trial B five weeks, trial A five weeks, etc. Defence counsel in trial A will leave Arusha while trial B is heard. The purpose of this system is to use inevitable breaks during one trial to ensure progress of another case. Such breaks allow the Prosecution and the Defence to prepare for the next stage of the proceedings (for instance by interviewing witnesses etc.).

[4] One of the judges in this Chamber was not re-elected for the third mandate (2003-2007). In resolution 1482 (2003), the Security Council did not extend his mandate for the purpose of enabling him to continue sitting on the Butare case. On 15 July 2003, the Chamber decided that the trial should continue with a substitute judge under Rule 15 *bis* of the Rules of Procedure and Evidence ("the Rules"). Appeals against this decision were dismissed by the Appeals Chamber on 24 September 2003.

28 September 2004 and its reasons of 22 October 2004, the trial will start *de novo* before a different Trial Chamber Section in Trial Chamber III. Rwamakuba has since been severed from this case and his trial will commence on 9 June 2005.

12. The six single-accused cases that have started in the third mandate led to two judgements in 2004 (Gacumbitsi, Ndindabahizi) and two judgements in 2005 (Rutiganira, who pleaded guilty, and Muhimana). A further two judgements (Simba and Seromba) are expected later this year. The presentation of Defence cases in the Butare and Military I trials, involving ten accused, is expected to be completed in 2006. The situation is the same for the Government case. The Karemera *et al.* case and the Military II case are also complex trials. It is estimated that these two multi-accused trials will be completed in 2006/7. An overview of on-going trials is presented in Annex 2.

III. Remaining Detainees

13. Sixteen detainees are awaiting the commencement of their trials. These cases will result in single-accused trials, some of which will commence in 2005, depending on Trial Chamber capacity. The Tribunal is in the process of scheduling trials in two such cases. Further details are given in Annex 3.

14. All of the remaining indictees may not be tried by the ICTR. In determining which individuals should be tried before the ICTR, the Prosecutor will be guided by the need to focus on those who are alleged to have been in positions of leadership and those, who according to the Prosecutor, bear the greatest responsibility for the genocide. This concentration on the most senior leaders suspected of being most responsible for crimes committed within the jurisdiction of the ICTR is in conformity with Security Council resolution 1534 (2004). The criteria to be taken into consideration when making this determination are as follows:

- the alleged status and extent of participation of the individual during the genocide;
- the alleged connection an individual may have with other cases;
- the need to cover the major geographical areas of Rwanda in which the crimes were allegedly committed;
- the availability of evidence with regard to the individual concerned;
- the concrete possibility of arresting the individual concerned;
- the availability of investigative material for transmission to a State for national prosecution.

15. On the basis of these criteria, the Prosecutor intends to transfer the cases of five of the present detainees to national jurisdictions for trial.[5] It will be for the Trial Chambers to decide on the requests for transfer.

[5] As discussions with States are on-going, it is not possible to identify the five cases involving detainees that may be transferred to national jurisdictions.

IV. Workload Relating to the Detainees

16. The analysis provided above (II-III) shows that, in addition to the judgements already rendered involving twenty-five persons, the ICTR will deliver judgements concerning at least thirty-six accused presently in the Tribunal's custody (twenty-five accused currently on trial and eleven detainees from 2005 onwards). Therefore, there is a need to estimate the time required to complete twenty trials involving thirty-six detainees.[6]

17. Estimating the required number of trial days for the completion of these trials has its difficulties. However, for the purposes of continuity and the assessment of progress, the methodology used in the previous versions of the Completion Strategy, will be maintained. Calculations and projections made in these documents were premised on a sixty-two trial day average per accused.

18. It is recalled, firstly, that the estimates in previous Completion Strategy submissions were based on the number of witnesses and hours needed to present the Prosecution case, cross-examination and the Defence case. Since then, there has been considerable progress in many trials. For ease of reference, the table that formed the basis for the estimate of sixty-two trial days per accused is annexed to this document (Annex 4).

19. It is also recalled that the length of Defence cross-examination depends on factors relating to each individual case. Experience shows that in cases involving one accused, the cross-examination of Prosecution witnesses will generally take about the same amount of time as the examination-in-chief. In some instances, it may even be shorter. In multi-accused trials, the time taken for cross-examination often exceeds the time taken in examination-in-chief, particularly if the witness gives evidence implicating more than one or all the accused. It is assumed, as a working tool, that the total time taken for the cross-examination of a Prosecution witness will normally not exceed the total time taken for the examination-in-chief of that witness, when all cases are considered as a whole. In this context, it is taken into account that the Prosecution's list of witnesses has usually been reduced during trial.

20. Finally, it is recalled that information about Defence cases is difficult to obtain, particularly since most of these cases have not yet started and there is the issue of confidentiality when it comes to the trial strategy of the Defence. As a working tool, it is assumed that the time needed for the presentation of the Defence case should not exceed the time required for the presentation of the Prosecution case. Experience shows that it may often take less time.

21. As mentioned above, the Prosecution usually reduces the number of witnesses as the trial unfolds. Furthermore, the Chambers exert considerable control over these variables within the ambit of fair trial principles, for instance by restricting the length of examination-in-chief and cross-examination. Therefore, it is highly probable that the real time spent in court may be less than sixty-two trial days per accused. Recent single-accused trials suggest that the Prosecution will usually require about twenty trial days to present its case. It is also

[6] The twenty cases involving thirty-six accused are Butare (6), Military I (4), the Government trial (4), Military II (4), Karemera *et al.* (3), Rwamakuba (1), Simba (1), Seromba (1), Muvunyi (1) and eleven single-accused trials of detainees presently in Arusha. The Simba trial is virtually completed and is not included in the calculations below.

worth noting that such cases completed recently reflect a substantially lower number of the total number of trial days per accused (Elizaphan and Gérard Ntakirutimana: thirty trial days per accused; Niyitegeka: thirty-five trial days; Gacumbitsi: thirty-two trial days; Ndindabahizi: twenty-seven trial days; Muhimana: thirty-four trial days). It is expected that this trend towards shorter trials will continue. However, at present, it is considered prudent to use as a working tool the estimation of sixty-two trial days per accused. This includes variables such as time needed for opening and closing arguments, extended cross-examination in multi-accused trials, hearing of and deliberation on motions and illness.

Trials in Progress

22. The on-going trials are at different stages of completion. In the Butare trial, the Prosecution has closed its case after 212 days of trial. The Defence case commenced on 31 January 2005 and has proceeded over forty-nine trial days. Based on the premise that the Defence case will take as much time as the Prosecution case, a further 163 trial days will required for the Defence case.

23. In the Military I trial, the Prosecution closed its case after 202 trial days. The Defence case commenced on 11 April 2005 and has proceeded over twenty-four days of trial. A further 178 days will required for the presentation of the Defence case, based on the premise that the Defence case will take as long as the Prosecution case. However, experience in other multi-accused trials shows that the presentation of the Defence case usually requires less time compared to the Prosecution case, due to less intensive cross-examination.

24. The Government case involving four accused has thus far proceeded over 165 trial days. The Prosecution case is near completion and it is anticipated that approximately fifteen trial days will be required before the Prosecution rests. The Defence case will require a 180 trial days, based on the estimation that the Defence case will take as much time as the Prosecution case.

25. The Military II case of four accused will require 248 trial days, based on the estimation of sixty two trial days per accused. This trial commenced on 20 September 2004 and has been conducted over sixty-six trial days. A further 182 trial days will be required for the completion of this trial.

26. The Karemera *et al.* trial which originally involved four accused, has been conducted over twenty-five trial days but will now start *de novo* (para. 11). One accused (Rwamakuba) has been severed from this case and his trial will require sixty-two trial days. The new trial of the remaining three accused will commence in September 2005. It will require 186 trial days, based on the average of sixty-two trial days per accused.

27. In the Seromba case, the Prosecution has closed its case after twenty-five trial days. A maximum of thirty-five trial days will be required for the presentation of the Defence case and the hearing of closing arguments.

28. The single-accused Muvunyi trial commenced on 28 February 2005 and has thus far proceeded over seventeen trial days. Based on the average of sixty-two trial days for a single- accused trial, this trial will require a further forty-five trial days.

29. The cumulative time required for the completion of trials that are presently in progress is 1,046 trial days. Again, these are only estimates. Some trials may require longer time, others less. Additional time will be required for judgement writing.

Detainees Awaiting Trial

30. The Prosecutor intends to transfer five of the current sixteen detainees to national jurisdictions for trial (paras. 13-15). Trials of the remaining eleven detainees will require 682 trial days, using the average of sixty-two trial days per accused.

V. Workload Relating to Persons at Large

31. According to the Completion Strategy of April 2004, seventeen indictees were at large. Following the arrest and transfer of three of these accused, the number has now been reduced to fourteen. The Prosecutor intends to transfer four of these accused to national jurisdictions for trial. If arrested, the remaining ten indictees will increase the workload of the ICTR. According to the Prosecutor, some of these indictees may be dead, whereas others may never be arrested.

32. The Completion Strategy of September 2003 indicated that twenty-six suspects were at large. As the Prosecutor's strategy is to prosecute before the ICTR those persons bearing the greatest responsibility for the crimes committed in Rwanda in 1994, the number of suspects under investigation was reduced to sixteen in the Completion Strategy submission of April 2004.[7] Following the completion of investigations in respect of the genocide, the files involving eight of these persons have been closed due to lack of evidence. Eight indictments against the remaining eight suspects are being submitted for confirmation. The Prosecutor has also taken account of the mandate of the ICTR, as emphasized by Resolution 1503, to investigate reports of violations by the Rwanda Patriotic Front (RPF).

33. Once an individual is indicted, substantial investigations must be continued in order to support the trial team. Additional investigations may be needed to replace the evidence of witnesses who may have died, to assist in the interviewing of witnesses prior to their travel to Arusha, to supplement and corroborate the evidence, and to address the Defence case and any possible rebuttal.

34. All investigations in respect of the genocide have now been completed, as requested by Resolution 1503 (2003). Moreover, when indictments are submitted for confirmation, the Prosecutor will ensure that the case will be ready for trial, in the sense that all approved identified investigations are completed, a draft pre-trial brief is prepared, together with draft exhibits and witness lists, and that disclosure searches (as of that date) are completed. This will ensure that (i) there will be no delay in trial preparations when the accused is surrendered to the Tribunal; (ii) the case can be more readily assigned to a new Prosecution team if necessary; or (iii) referred to a national jurisdiction pursuant to Rule 11 *bis* of the Rules.

[7] In the November 2004 version of the Completion Strategy the number was fifteen. The correct figure is sixteen.

35. The ICTR may have to hold trials for fourteen persons comprising the ten indictees at large and four of the eight suspects the Prosecutor intends to indict.[8] Based on the average of sixty-two trial days per accused (paras. 17-21), it is estimated that their trials could take 868 trial days. Again, it is stressed that the number of persons brought to trial may be less than fourteen, and that the number of trial days per accused in single-accused trials may be reduced.

36. In addition to investigating the remaining eight suspects whose indictments are being submitted for confirmation, the investigations section continues to provide support in respect of ongoing trials and appeals. There will now be a shift in emphasis from classical investigations to trial and appeals support, with the completion of investigations against the eight suspects.

VI. Transfer of Cases by the Prosecutor to National Jurisdictions

37. The Completion Strategy of September 2003 indicated that about forty cases were earmarked for transfer to national jurisdictions. According to the April 2004 Completion Strategy, the Prosecutor increased the number of these cases from forty to forty-one. He is currently engaged in discussions with some States for this purpose. His intention is to transfer, in some cases, files in respect of which investigations have been completed and are trial ready and, in other cases, dossiers requiring further investigations by the receiving country. The decision to transfer cases to national jurisdictions is a judicial one in cases where indictments exist. In addition to the five detainees (paras. 14-15 and 30), the four indictees still at large (para. 31), and four of the suspects whose indictments are being submitted for confirmation (para. 35), the Prosecutor envisages the transfer of cases involving thirty-two individuals to national jurisdictions for trial. This process has commenced. Case files in respect of fifteen suspects have already been transferred to Rwanda.

38. In preliminary discussions with national authorities, the Office of the Prosecutor has ascertained that the laws of the State in which some suspects are present may not confer jurisdiction over these suspects or the crimes they allegedly committed. Others have investigated the cases and not pursued them, and may be reluctant to re-open these cases. Many of the suspects are in less-developed countries where judicial systems are under strain arising from the prosecution of their own accused. The Prosecutor believes that it is important to explore the possibility of transferring cases to African countries where certain suspects are now living, despite the above constraints.

39. Transfer of cases to Rwanda raises several issues. One involves the death penalty, which has been imposed in genocide cases, though only rarely implemented. There is also the issue of the capacity of the Rwandan judicial system to handle such cases at a time when it faces difficulties in coping with thousands of local cases connected with the genocide. Since many of the cases earmarked for transfer are destined for Rwanda, the issue of resources may therefore affect the proposed transfer of cases to Rwanda.

[8] The Prosecutor envisages transferring the other four suspects whom he intends to indict to national jurisdictions for trial.

40. The Prosecutor will initiate discussions with States regarding transfer of cases and transmissions of files. He will insist on compliance with international standards of fair trial on the files transmitted. In the event that it is not possible to transfer or transmit these cases to national jurisdictions, he will make alternate proposals to the Security Council and highlight the related budgetary implications.

VII. Total Remaining Workload

41. The estimated number of trial days required for the completion of all trial work is 2,596 trial days. This is a cumulative assessment made on the basis that 1,046 trial days will be required for the completion of trials in respect of the twenty-five detainees presently on trial; 682 trial days will be required for the completion of trials in respect of the eleven detainees awaiting trial; and 868 trial days will required for the completion of trials in respect of the maximum of fourteen persons comprising the indictees who remain at large and four of the eight suspects whose indictments are being submitted for confirmation.

42. In 2003, the Trial Chambers sat a total of 498 trial days. In 2002, the three Trial Chambers sat a total of 414 trial days. In 2001, the Chambers sat a total of 340 trial days. Examination of the Chambers' actual sitting times shows that the amount of time that a Chamber was able to devote to trials over this three year period was 135 trial days in 2001, 150 trial days in 2002 and 166 trial days in 2003. In previous Completion Strategy submissions, projections were premised on an average of 150 trial days per year, per Trial Chamber Section. For reasons mentioned above (para. 17), estimates in this document will be based on this average.

43. Factors which contributed to a reduction in the number of trial days included the difficulty to obtain the appearance of witnesses from Rwanda and illness on the part of judges and counsel. The ICTR has taken several steps to ensure that such factors are minimized in the future. In particular, the Rules have been amended to allow for a Trial Chamber to continue the trial in the eventuality of a judge being ill, absent or permanently unavailable (Rule 15 *bis*).[9] The insistence by the Trial Chambers on having two Defence counsel and, in the event of illness or absence of one counsel, requiring the remaining counsel to continue, will reduce the occurrence of interruptions of trials. At present, witnesses from Rwanda are appearing before the ICTR. It is important that this situation continues.

44. Experience shows that it is difficult to ensure that witnesses are always available, even with the use of additional witnesses present in Arusha in case of unavailability. A frequent situation in practice is that Prosecution or Defence counsel requires additional time to prepare witnesses for examination-in-chief. The Chambers also have to allow Prosecution and Defence additional time for the preparation of cross-examination in situations where unexpected evidence emerges or evidence is tendered without proper notice. Sufficient time is needed for pre-trial hearings, deliberation on motions and judgement writing. These circumstances combined with illness and other forms of unavailability of witnesses, not only reduce the number of trial days but also the number of sitting hours per trial day.

[9] In 2003, there was a disruption to trial proceedings because some of the judges were not re-elected.

Nevertheless, the Chambers will continue their efforts to increase the time spent in the court room.

VIII. Past and Present Strategies

45. **Pre-trial Stage**: At the commencement of the second mandate, in June 1999, there were a considerable number of pending pre-trial motions. The Prosecutor at that time requested the joinder of a large number of accused in one case, at one point asking for the confirmation of a joint indictment for over twenty suspects. The Confirming Judge denied the request. The Prosecutor then asked for joinder of smaller numbers of accused, who allegedly participated in the same criminal transaction, such as the use of public media, the actions of military officials, government officials, or alleged crimes in certain geographical areas of Rwanda (Butare, Cyangugu). This led to a considerable number of motions from the Prosecution requesting amendments of indictments and the joinder of accused. In addition, a large number of motions were filed by the Defence.

46. Consequently, the first priority for the Chambers in 1999 was to reduce the number of motions in order to move cases to the trial stage. To facilitate this, the judges amended the Rules in order to allow for motions to be considered solely on written pleadings and also by a single judge. These measures taken to reduce the workload of outstanding motions increased the efficiency of the Chambers and reduced costs in connection with oral hearings of motions. After having reduced the number of pending motions to a minimum, full translation and disclosure of documents was ordered before all three Trial Chambers could commence with trial.

47. Additionally, changes to the Rules were adopted by the judges in the Plenary to regulate the pre-trial process and to restrict the number of interlocutory appeals that were delaying the commencement of trials. Through pre-trial and pre-defence status conferences, a Trial Chamber has the authority to streamline trial proceedings. In particular, the parties may be ordered to file briefs addressing the factual and legal issues, identifying contested matters, and provide a list of witnesses intended to be called, along with a summary of the facts and the specific allegations in the indictment on which the witnesses will testify. Moreover, the parties must give an estimate of the time that will be taken by each witness to give their evidence, and the Trial Chamber may order a reduction in the number of witnesses and the time for witnesses to give evidence-in-chief. The Trial Chamber may also order information on the status of exhibits (Rules 73 *bis* and *ter*).

48. A useful step was the establishment of the Trial Committee in 2003, which is composed of representatives of Chambers, the Registry and the Prosecution. The Committee, which is in contact with the various Defence teams, has facilitated the trial-readiness of several new cases. A Translation Working Group has studied ways to speed up translation of documents and thus avoid delays in the judicial proceedings.

49. Guilty pleas reduce the length of trials. Experience shows that not more than a day is needed for a Chamber to satisfy itself that a guilty plea is informed, unequivocal, and made freely and voluntarily. The writing of the judgement requires a few weeks. Unlike the

situation at the ICTY, very few accused have pleaded guilty at the ICTR.[10] It is difficult at this stage to estimate how many accused at the ICTR may in future plead guilty. At the Plenary Session in May 2003, the Rules were amended, providing a legal basis for plea-agreements.

50. **The Trial Stage:** All Trial Chambers have been conducting trials on a twin-track basis (in some instances also on a "triple-track" basis). This strategy resulted in the production of a considerable number of judgements in 2003. However, twin-tracking of two big cases or more is cumbersome. Experience shows that the best model is to twin-track one big and one small case, and this strategy will be followed in the future, unless the big case is particularly voluminous and complex. When required, the ICTR is using the so-called "shift system", which ensures that one court room is used for two cases heard in morning and afternoon sessions. The shift system operates in a morning shift from 8.45 to about 13.00, and an afternoon shift until about 18.30.

51. Following the ICTR's request of 9 July 2001, the Security Council adopted Resolution 1431 of 8 August 2002, created a pool of eighteen *ad litem* judges. The purpose of this reform, which followed a similar Security Council resolution for the ICTY in 2000, was to increase the judicial capacity of the ICTR. The election of the eighteen *ad litem* judges by the General Assembly took place on 25 June 2003. The first *ad litem* judge took office on 1 September 2003 and three other *ad litem* judges arrived in October 2003. Pursuant to two other requests on 8 September 2003 and 29 September 2003, respectively, the Security Council on 27 October 2003 adopted Resolution 1512, which increased, from four to nine, the number of *ad litem* judges who could take office at any one time. The Security Council also conferred on the *ad litem* judges the competence to adjudicate over pre-trial matters. The fifth judge arrived in March 2004. The arrival of the five *ad litem* judges made it possible to start four new trials and to continue the Butare trial. After the arrival of the remaining four *ad litem* judges in September 2004, it was possible to commence another two trials.[11]

52. With nine *ad litem* judges, the Tribunal is able to set up six Trial Chamber Sections. These six Sections will be able to produce 4,500 hours of trial work over 900 trial days per year. However, it follows from the ICTR Statute that a Trial Chamber Section must be comprised of both permanent and *ad litem* judges. Hence, the full utilisation of *ad litem* judges depends on the availability of permanent judges. At present, several permanent judges are engaged in voluminous trials.[12] This makes it difficult to maintain six Trial Chamber Sections on a permanent basis. However, experience shows the usefulness of twin-tracking one joint trial with a single-accused trial, as well as the Trial Chamber Sections sitting in

[10] The following judgements were based on guilty-pleas: *Prosecutor v. Jean Kambanda* (1998); *Prosecutor v. Omar Serushago* (1999); *Prosecutor v. Georges Ruggiu* (2000); *Prosecutor v. Vincent Rutaganira* (2005).

[11] From September 2003 to the end of April 2004, *ad litem* judges participated in the following four new trials: Ndindabahizi, Government, Karemera *et al.*, and Muhimana. From September 2004, *ad litem* judges also sat in the Seromba and Military II trials.

[12] Two permanent judges sit in the Butare trial and three in the Military I trial.

shifts. Therefore, the number of Trial Chamber Sections is about six, even if they are not all sitting on a permanent basis.[13]

53. As mentioned above, nine trials are currently in progress of which five are voluminous joint trials. It is important to find the right balance between the multi-accused and single-accused trials. Some Trial Chamber Sections sit in morning and afternoon shifts. These sessions are shorter than full trial days, by about two hours. In the November 2004 version of the Completion Strategy, it was mentioned that the construction of a fourth courtroom would allow for more full trial days, thus increasing the progress of the multi-accused trials and courtroom capacity when appeals are heard. Following voluntary contributions by the Norwegian and United Kingdom Governments, a new courtroom was constructed in record time and inaugurated on 1 March 2005. This is a very important element of the Tribunal's Completion Strategy.

54. In spite of all measures taken to accelerate the proceedings, cases still appear to be time-consuming. It should be remembered that conducting judicial proceedings at the international level is a more complicated task than at the national level. The cases at the *ad hoc* Tribunals are legally and factually very complex. There is a considerable volume of documents normally disclosed during trials of alleged architects of the atrocities, including alleged high-ranking members of the government. These documents must be translated for legal teams and accused, who may require translations of all the documents into the other official language of the Tribunal before they respond to motions or undertake trial preparation. The number of witnesses is often considerable, and simultaneous interpretation of all testimony is required into three languages. Witnesses have often to be extracted from difficult environments, afforded considerable protection before and after testimony and sometimes re-located. The staff and counsel involved in cases come from different cultures and traditions, and effective communication requires new skills and extra effort. Prosecution and Defence counsel come from all over the world, and have different court-room styles. Defence counsel have to leave their other case-work for considerable periods to spend time working at the ICTR in Arusha, usually away from their practices.

55. **Administrative Matters:** With the shift in emphasis of the ICTR from one centred on investigation and arrests to one centred on trials, the Registry will focus its attention on the end-date for the Tribunal in all aspects of its work. Contracts entered into, item of equipment purchased and personnel recruited will all bear a close relationship to the Completion Strategy.

56. In assessing its needs for human resources with a view to promoting the implementation of its Completion Strategy, the Prosecutor envisages a substantial increase in the number of trial attorneys and an expansion of its Appeals Section. Investigative and administrative support is also needed. This increase will be addressed by redeployment. The Prosecutor expects that at the anticipated conclusion of investigations, some posts presently held by investigators could be re-deployed to increase the number of trial attorneys, legal advisors and other staff required for trial.

[13] There were eight Trial Chamber Sections in the first four months of 2005: Butare, Military I, the Government case, Military II, Muhimana, Simba, Seromba and Muvunyi. This is possible because some judges sit in two trials, either because of twin-tracking or the shift-system.

57. **Sufficient Resources:** In order to respect the time-frames laid down by Security Council resolutions 1503 and 1534, the ICTR must continue to receive the necessary resources. Last year, the United Nations administration imposed a freeze on the recruitment of new staff at the Tribunal, due to delays in the payment of contributions to the *ad hoc* Tribunals by Member States. This threatened to have significant effect on the Completion Strategy. The lifting of the freeze at the beginning of 2005 improved the situation.

IX. Conclusions

58. The estimated work-load outlined above makes it possible to draw the following conclusions based on six Trial Chamber Sections.

59. As mentioned above, there are currently twenty-five detainees in nine trials (Butare, Military I, the Government Case, Military II, Karemera *et al.*, Simba, Seromba, Muvunyi and Rwamakuba), five of which are lengthy because they are joint trials. These trials are at different stages. An estimate of 1,046 trial days will be required for their completion. Trials of the eleven detainees awaiting trial will require about 682 trial days. Approximately 868 trial days will be required for the completion of trials in respect of the fourteen persons comprising the indictees who remain at large and suspects who are likely to be indicted and tried before the Tribunal.

60. In the Completion Strategy of April 2004, it was projected that in 2004, three trials (Gacumbitsi, Ndindabahizi and Muhimana) would be completed. This target was met. It was also stated that three trials involving six accused (Simba, Seromba and Military II) would commence from May to September 2004. This projection was also accomplished.

61. In 2005, judgements have thus far been delivered in the Rutaganira and Muhimana cases. Judgements in the Simba and Seromba trials are expected later this year. The Completion Strategy of November 2004 indicated that three single-accused trials will commence in 2005. One of these trials (Muvunyi) is in progress. The other two will commence later this year.

62. In 2006, trials in the Butare, Military I and Government cases are expected to be completed.[14] With the completion of most multi-accused trials, more permanent judges will become available to sit with *ad litem* judges. It is therefore expected that about six new single-accused trials could commence in 2006.

63. In 2006/7, Karemera *et al.* and the Military II cases are expected to have been completed. About six single-accused trials could commence, including indictees at large or suspects. Depending on the progress of these cases, about six single-accused trials could start in 2008.

[14] In the Completion Strategy of November 2004, it was projected that the Military I trial would be completed by 2005. However, counsel for one of the accused was withdrawn from the case, which resulted in a delay in the resumption of trial.

64. The above projections suggest that, by 2008, the ICTR could complete trials and judgements in the range of sixty-five to seventy persons, depending on the progress of present and future trials. Again, it is emphasized that this is an estimate. It also depends on sufficient resources being made available. The Tribunal is committed to bringing to justice those persons who were most responsible for genocide and violations of international humanitarian law that were committed in Rwanda in 1994. In this process, the ICTR will establish the guilt or innocence of the accused, bring justice to victims of the massive crimes that were committed and establish a record of facts that can aid reconciliation in Rwanda. The Tribunal will also leave a legacy of international jurisprudence that can guide future courts and deter the future commission of these grave crimes.

65. As mentioned above (para. 1), the present document is part of the ICTR's continuing process of refining its Completion Strategy. The Tribunal welcomes contributions to this process.

ANNEX 1

PERSONS CONVICTED OR ACQUITTED: TWENTY-FIVE ACCUSED IN NINETEEN JUDGEMENTS

First Mandate (May 1995-May 1999)

Name	Former Title	Initial Appearance	TC	Judgement
J.-P. Akayesu	Bourgmestre of Taba	30 May 1996	TC1	2 September 1998
J. Kambanda	Prime Minister	1 May 1998	TC1	4 September 1998 (guilty plea)
O. Serushago	Businessman, Interahamwe leader	14 December 1998	TC1	5 February 1999 (guilty plea)
C. Kayishema	Prefect of Kibuye	31 May 1996	TC2	21 May 1999 (joinder)
O. Ruzindana	Businessman	29 October 1996		
G. Rutaganda	Businessman, 2nd Vice-president of Interahamwe	30 May 1996	TC1	6 December 1999
A. Musema	Businessman	18 November 1997	TC1	27 January 2000
Sum first mandate				**Six judgements (seven accused)**

Second Mandate (May 1999-May 2003)

G. Ruggiu	RTLM Journalist	24 October 1997	TC1	1 June 2000 (guilty plea)
I. Bagilishema	Bourgmestre of Mabanza	1 April 1999	TC1	7 June 2001
G. Ntakirutimana	Doctor	2 December 1996	TC1	21 February 2003 (joinder)
E. Ntakirutimana	Pastor	31 March 2000		
L. Semanza	Bourgmestre of Bicumbi	16 February 1998	TC3	15 May 2003
E. Niyitegeka	Minister of Information	15 April 1999	TC1	15 May 2003
J. Kajelijeli	Bourgmestre of Rukingo	19 April 1999	TC2	1 December 2003
F. Nahimana	RTLM Director	19 February 1997	TC1	"Media case" (joinder) 3 December 2003
H. Ngeze	Kangura Editor	19 November 1997		
J.-B. Barayagwiza	Director, Ministry of Foreign Affairs	23 February 1998		
J. Kamuhanda	Minister of Culture and Education	24 March 2000	TC2	22 January 2004
A. Ntagerura	Minister of Transport	20 February 1997	TC3	"Cyangugu case" (joinder) 25 February 2004
E. Bagambiki	Prefect of Cyangugu	19 April 1999		
S. Imanishimwe	Lieutenant in FAR	27 November 1997		
Sum second mandate				**Nine judgements (14 accused)**

Trials started and completed within the third mandate (May 2003-May 2007)

Name	Former Title	Initial Appearance	TC	Judgement
S. Gacumbitsi	Bourgmestre of Rurumo	20 June 2001	TC3	17 June 2004. Trial started on 28 July 2003.
E. Ndindabahizi	Minister of Finance	19 October 2001	TC1	15 July 2004. Trial started on 1 September 2003.
V. Rutaganira	Councillor	26 March 2002	TC 3	Guilty Plea. Judgement of 14 March 2005.
M. Muhimana	Councillor	29 November 1999	TC 3	28 April 2005. Trial started on 29 March 2004.
Sum third mandate so far				**Four judgements (four accused)**

Positions: The 25 accused held the following positions in 1994: 1 Prime Minister, 4 Ministers, 2 Prefects, 5 Bourgmestres, 2 Councillors, 1 Senior Admin., 3 Media, 1 Military, 1 Clergy, 5 Other.

ANNEX 2

TRIALS IN PROGRESS: TWENTY-FIVE DETAINEES IN NINE CASES

Name	Former Title	Initial Appearance	TC	Comments
P. Nyiramasuhuko	Minister of Family and Women's Affairs	3 September 1997	TC2	"Butare case" (joinder). Started in second mandate. Completion in 2006.
A. S. Ntahobali	Interahamwe leader	17 October 1997		
S. Nsabimana	Prefect of Butare	24 October 1997		
A. Nteziryayo	Prefect of Butare	17 August 1998		
J. Kanyabashi	Bourgmestre of Ngoma	29 November 1996		
E. Ndayambaje	Bourgmestre of Muganza	29 November 1996		
T. Bagosora	Dir. Of Cabinet, Ministry of Defence	20 February 1997	TC1	"Military I case" (joinder). Started in second mandate. Completion in 2006.
G. Kabiligi	Brigadier-General in FAR	17 February 1998		
A. Ntabakuze	FAR Battalion Commander	24 October 1997		
A. Nsengiyumva	Lieutenant-Colonel in FAR	19 February 1997		
C. Bizimungu	Minister of Health	3 September1999	TC2	"Government case" (joinder). Started on 5 November 2003. Completion in 2006.
J. Mugenzi	Minister of Commerce	17 August 1999		
J. Bicamumpaka	Minister of Foreign Affairs	17 August 1999		
P. Mugiraneza	Minister of Civil Service	17 August 1999		
E. Karemera	Minister of Interior, V-P of MRND	7 April 1999	TC3	"Karemera *et al.* case" (joinder). Started on 27 November 2003; commences *de novo* 5 September 2005. Completion in 2006/7.
M. Ngirumpatse	D-G of Ministry of Foreign Affairs, President of MRND	7 April 1999		
J. Nzirorera	President of National Assembly, S-G of MRND	7 April 1999		
A. Rwamakuba	Minister of Education	7 April 1999	TC3	Started on 27 November 2003; commences *de novo* 9 June 2005.
A. Simba	Lieutenant-Colonel in FAR	18 March 2002	TC1	Started on 30 August 2004. Judgement in 2005.
A. Seromba	Priest, Kivumu Commune	8 February 2002	TC3	Started on 20 September 2004. Judgement in 2005.
A. Ndindilyimana	Chief of Staff of Gendarmerie	27 April 2000	TC2	"Military II case" (joinder). Started on 20 September 2004. Completion in 2006/7.
F-X Nzuwonemeye	FAR Battalion Commander	25 May 2000		
I. Sagahutu	2IC of Reconn. Battalion	28 November 2000		
A. Bizimungu	Chief of Staff of FAR	21 August 2002		
T. Muvunyi	Military Commander	8 November 2000	TC2	Trial started on 28 February 2005.

Positions: 7 Ministers, 1 Parliamentarian, 2 Prefects, 1 Senior admin., 2 Bourgmestres, 10 Military, 1 Clergy, 1 Other.

ANNEX 3

AWAITING TRIAL: SIXTEEN DETAINEES

Name	Former Title	Initial Appearance	TC	Number of OTP witnesses.*
S. Nchamihigo	Deputy Prosecutor	29 June 2001	TC1	15
J. Mpambara	Bourgmestre of Rukara	8 August 2001	TC1	20
E. Rukundo	Chaplain	26 September 2001	TC3	20
P. Zigiranyirazo	Businessman	10 October 2001	TC3	30
F. Karera	Prefect of Kigali Rural	26 October 2001	TC3	15
P. Bisengimana	Bourgmestre of Gikoro	18 March 2002	TC2	15
J. Nzabirinda	Youth Organizer	27 March 2002	TC2	15
S. Bikindi	Musician	4 April 2002	TC3	30
H. Nsengimana	Rector, Christ-Roi College	16 April 2002	TC2	15
J.-B. Gatete	Bourgmestre of Murambi	20 September 2002	TC1	30
T. Renzaho	Prefect of Kigali	21 November 2002	TC2	30
I. Hategekimana	Lieutenant, Commander of Ngoma Camp, Butare	28 February 2003	TC3	
J. Rugambarara	Bourgmestre of Bicumbi	15 August 2003	TC2	
Y. Munyakazi	Interahamwe leader	12 May 2004	TC1	
G. Kanyarukiga	Businessman	22 July 2004	TC1	
E. Setako	Colonel	22 November 2004	TC 1	

Positions: 2 Prefects, 4 Bourgmestres, 1 Lesser admin, 2 Military, 2 Clergy, 5 Others.
* The number of OTP witnesses heard during trial is normally lower than pre-trial estimates.

ANNEX 4

ESTIMATES BASED ON THE PROSECUTOR'S (OTP) FIGURES FOR PRESENT DETAINEES (PREVIOUS COMPLETION STRATEGY)

	Case	No. of Accused	No. of OTP witnesses	No. of hours for OTP case-in-chief	No. of hours for Defence cross-examination	No. of hours for Defence case-in-chief	No. of hours for OTP cross-examination	Total hours
1	Butare	6	68	330	330	330	330	1320
2	Military I	4	100	500	500	500	500	2000
3	Muvunyi and Hategikimana	2	43	180	180	180	180	720
4	Seromba	1	20	100	100	100	100	400
5	Ndindabhizi	1	15	50	50	50	50	200
6	Military II	4	90	500	500	500	500	2000
7	Government I	4	50	300	300	300	300	1200
8	Karemera *et al.*	4	45	300	300	300	300	1200
9	Zigiranyirazo	1	30	100	100	100	100	400
10	Bikindi	1	30	100	100	100	100	400
11	Renzaho	1	30	100	100	100	100	400
12	Gikongoro	1	41	170	170	170	170	680
13	Bisengimana	1	15	50	50	50	50	200
14	Karera	1	15	50	50	50	50	200
15	Mpambara	1	30	150	150	150	150	600
16	Gacumbitsi	1	30	120	120	120	120	480
17	Rukundo	1	20	80	80	80	80	320
18	Nzabirinda	1	15	60	60	60	60	240
19	Nsengimana	1	15	60	60	60	60	240
20	Muhimana	1	15	60	60	60	60	240
21	Rutaganira	1	15	60	60	60	60	240
22	Gatete	1	30	120	120	120	120	480
23	Nchamihigo	1	15	60	60	60	60	240
24	Rugambarara	1	20	80	80	80	800	340
		42	**794**	**3680**	**3680**	**3680**	**3680**	**14740**

United Nations S/2005/337

Security Council

Distr.: General
24 May 2005

Original: English

Letter dated 24 May 2005 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

I have the honour to enclose herewith a letter from Hoshyar Zebari, Minister for Foreign Affairs of the Republic of Iraq, regarding the extension of the mandate of the Multinational Force (MNF) in Iraq, which is due to be reviewed soon (see annex).

I would appreciate it if the present letter and its annex could be circulated a document of the Security Council.

(*Signed*) Samir Shakir M. **Sumaida'ie**
Ambassador
Permanent Representative

05-35614 (E) 240505

Annex to the letter dated 24 May 2005 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

The mandate of the Multinational Force (MNF) in Iraq is soon due for review, as decided by the Security Council in its resolution 1546 (2004). In this respect, the Transitional Government of Iraq formally requests the Council to allow for the continuation of this mandate until the completion of the political process endorsed by the Council in the same resolution, or until Iraq can provide for its security needs on its own.

I would like to recall that this mandate was requested by Dr. Ayad Allawi, the Prime Minister of the Interim Government of Iraq, in a letter annexed to resolution 1546 (2004). In that letter, dated 5 June 2004, Dr. Allawi also requested the annual review that is about to take place.

Many of the conditions prevailing when Dr. Allawi wrote his letter still hold. As we stand now, our country continues to face an armed insurgency, which still includes foreign elements opposed to Iraq's transition to democratic rule. Despite continuing efforts to build up our security forces, these forces cannot as yet assume full responsibility for maintaining our national security and defending our borders. To complete the transitional process endorsed in resolution 1546 (2004) and build on political achievements to date, we need the MNF to continue providing its essential contributions to our security, and I would like to reiterate the Iraqi Governments request for a continuation of the MNF's mandate.

Iraq looks forward to the day when its forces are able to assume full responsibility for maintaining its national security, at which time there will be no need for the engagement of the MNF. Until then, we need the continued presence of the MNF in Iraq. I would like to take this opportunity to express our thanks to the States participating in the MNF for their valued contributions.

(*Signed*) Hoshyar **Zebari**
Minister for Foreign Affairs
Transitional Government of Iraq

United Nations A/59/809–S/2005/338

General Assembly
Security Council

Distr.: General
24 May 2005
English
Original: English and Russian

General Assembly
Fifty-ninth session
Agenda item 163
The situation in the occupied territories of Azerbaijan

Security Council
Sixtieth year

Letter dated 20 May 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the statement by the Milli Mejlis (Parliament) of the Republic of Azerbaijan on the thirteenth anniversary of the occupation of the city of Shusha of the Republic of Azerbaijan by the armed forces of Armenia (see annex).

I should be grateful if the present letter and its annex were urgently distributed as a document of the fifty-ninth session of the General Assembly, under agenda item 163, and of the Security Council.

(*Signed*) Yashar **Aliyev**
Ambassador
Permanent Representative

05-35667 (E) 060605

Annex to the letter dated 20 May 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

[Original: English and Russian]

Statement by the Milli Mejlis (Parliament) of Azerbaijan on the thirteenth anniversary of the occupation of the city of Shusha, of Azerbaijan, by the armed forces of Armenia

This year, on 8 May, 13 years will have passed since the city of Shusha was occupied by the armed forces of Armenia. The occupation of Shusha was one phase of the military aggression conducted with the aim of tearing the region of Nagorno-Karabakh from Azerbaijan and annexing it to Armenia and driving the indigenous Azerbaijani population out of their homes. With the occupation of Shusha, which historically has always been the capital city of the entire Karabakh region, the Armenian nationalists completed the full ethnic cleansing of this region of Azerbaijan.

Shusha was founded in 1756 on the ancient place of settlement of Azerbaijanis as the capital of the independent Karabakh khanate by its ruler, the outstanding State figure Panahali Khan Javanshir. Since then, the city has played an important role in the social, political, economic and cultural life of Azerbaijan, Shusha, being the cradle of the culture and art of Azerbaijan, bestowed upon the world prominent figures such as the great poet Mollah Panah Vagif; the talented poetess Khurshudbanu Natavan; Abdurrahim bey Hagverdiyev, founder of Azerbaijani realism; Najaf bey Vazirov, playwright and publicist and one of the founders of dramatic art in Azerbaijan; Uzeyir Hajibayov, founder of the first opera in the East and great composer; Bulbul, world famous opera singer; Afrasiyab Badalbayli, founder of the Azerbaijani ballet; and a number of other brilliant figures from among our people.

As a result of the policy of aggression and ethnic cleansing launched by Armenia in 1988 with the purpose of implementing its territorial claims against Azerbaijan, 20 per cent of the territories of the Republic of Azerbaijan, i.e., the Nagorno-Karabakh region with the city of Shusha and seven adjacent districts — Lachin, Kalbajar, Aghdam, Jabrayil, Fuzuli, Qubadly and Zangilan — have been occupied, more than 1 million Azerbaijanis have been expelled from the territory of Armenia and occupied territories of Azerbaijan, leaving more than 18,000 Azerbaijanis killed, over 20,000 civilians injured, over 50,000 people disabled, over 4,000 people taken prisoner, taken hostage and missing and 877 towns, villages and settlements plundered, destroyed and burned.

In the course of aggression the Armenian nationalists committed terrible crimes of genocide against the Azerbaijani population. During the occupation of the Azerbaijani-populated villages of Imarat Garvand, Tugh, Salakatin, Akhullu, Khojavand, Jamilli, Nabilar, Meshali, Hasanabad, Karkijahan, Gaybaly, Malibayli, Yukhari and Ashaghi Gushchular, and Garadaghly in Nagorno-Karabakh, part of the people from these settlements were ruthlessly killed according to the pre-designed plan. In the village of Garadaghly alone, over 80 civilian Azerbaijanis, including children, women and old people, were tortured and killed mercilessly, dozens of people were taken hostage and the village itself was burned and razed to the ground.

On the night of 25 and 26 February 1992, the military forces of the Republic of Armenia and the Armenian terrorist groups in Nagorno-Karabakh, with the support of the 366th motorized regiment of the former Soviet army, the officers of which were mainly composed of Armenian nationals, stormed the Azerbaijani-populated town of Khojaly and committed one of the most horrible acts of genocide in the history of mankind. Without any military necessity, Khojaly was totally burned and destroyed; 613 civilian Azerbaijanis, including 63 children and 106 women, were brutally killed, 487 people were seriously wounded and 1,275 inhabitants — elderly people, children and women — were taken hostage and subjected to unbelievable humiliations and sufferings. A number of families were entirely annihilated. Even now there is no information about the fate of 150 people taken hostage, including 68 women and 26 children.

Civilians trying to break through the siege and escape were ambushed and ruthlessly killed by the Armenian militants on the roads and in the forests. The Armenian militants scalped persons they had killed, cut off their organs, put out the eyes of infants, ripped the abdomens of pregnant women and buried or burned people alive.

The nature and the scope of the bloody crimes committed in Khojaly and in the other Azerbaijani-populated settlements proves that these acts of genocide fully fall under the definition formulated in the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly in its resolution 260 (III) on 9 December 1948. These pre-designed massive and merciless acts of massacre were perpetrated with the intention of totally annihilating the people living in that territory due to their Azerbaijani origins. People trying to escape from the burned towns and villages were not given any mercy; children and women, in particular pregnant women, were brutally killed. Inhabitants of the other occupied towns and villages of Azerbaijan were able to escape the genocide only because they had left their settlements just a little before the attack of the Armenian military forces.

The Armenian aggressors destroyed the cultural-historical heritage of Azerbaijan in the occupied territories with special brutality. Committing acts of vandalism in the territories they had occupied, they plundered and burned nearly 500 historical and over 100 archaeological monuments, 22 museums and 4 art galleries and 9 palaces of historical importance, and desecrated 44 temples and 9 mosques. They destroyed and burned 927 libraries with 4.6 million books and unique manuscripts.

It is impossible to calculate and express in concrete figures the damage inflicted by the Armenian aggressors on the national cultural places of Azerbaijan in Nagorno-Karabakh and in the surrounding districts, because the plundered and destroyed treasures are a unique cultural legacy not only of Azerbaijan, but also of the world civilization.

Despite the fact that the major part of the territory of our country is under occupation and that one in eight persons is a refugee and internally displaced persons, living in tents in unbearable conditions, Azerbaijan is willing to eliminate peacefully the consequences of the aggression conducted by the Republic of Armenia. It has been over 11 years now that a ceasefire regime was established on the front line between Armenia and Azerbaijan.

As is known, with a view to settling the Armenia-Azerbaijan conflict over Nagorno-Karabakh, international efforts began with the establishment of the OSCE Minsk Group and the determination of the mandate for the future peace conference. Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) regarding the occupation of the Azerbaijani territories unequivocally reaffirmed the sovereignty, territorial integrity and inviolability of the borders of the Republic of Azerbaijan and demanded the complete, immediate and unconditional withdrawal of the Armenian armed forces from the occupied territories of Azerbaijan. These resolutions constitute the integral part of the legal framework for the conflict settlement.

The mechanism of the conflict settlement was established in 1994 as the OSCE Minsk Group co-Chairs. At present, three permanent members of the Security Council — the United States of America, France and the Russian Federation — are the OSCE Minsk Group co-Chairs.

The adoption of the principles of conflict settlement — the territorial integrity of the Republic of Armenia and the Republic of Azerbaijan, the legal status of Nagorno-Karabakh defined in an agreement based on self-determination which will confer on Nagorno-Karabakh the highest degree of self-government within Azerbaijan and guaranteed security for Nagorno-Karabakh and its whole population, including mutual obligations to ensure compliance by all the parties with the provisions of the settlement — at the 1996 OSCE Lisbon summit by all the OSCE member States, except Armenia, was an important step forward to the just settlement of the Armenia-Azerbaijan conflict over Nagorno-Karabakh.

The OSCE Istanbul summit of 1999 demonstrated the desire of the European States to enter the third millennium in peace and security and their willingness to protect the territorial integrity and independence of countries and to protect human rights and extend democracy.

On 25 January 2005, during the winter session, the Parliamentary Assembly of the Council of Europe heard the report on the Armenia-Azerbaijan conflict over Nagorno-Karabakh and adopted a resolution reflecting its position regarding the conflict and a recommendation addressed to the Committee of Ministers of the Council of Europe concerning the measures that the organization should carry out towards the settlement of the conflict. These documents enshrine the facts of occupation of the territories of Azerbaijan by the armed forces of Armenia, the control of the Nagorno-Karabakh region by the separatist forces and the perpetration of ethnic cleansing in the occupied territories. On the other hand, they stated that the occupation of foreign territories by a member State of the Council of Europe was in grave violation of the commitments and obligations assumed by that State before the Council of Europe. Furthermore, it condemned the attempt of occupation by use of force, referred to the Security Council resolutions demanding the liberation of the occupied territories of Azerbaijan, underlined the necessity of withdrawal of the armed forces from all the occupied territories and reaffirmed the right of displaced persons to return to their homes in safety and with dignity.

In order to eliminate the damage inflicted by the aggression of Armenia against our country and develop its independent State, the Azerbaijani people needs peace. The settlement of the Armenia-Azerbaijan conflict on the basis of the Charter of the United Nations, OSCE principles and international law, the withdrawal of the occupying forces from our territories, the restoration of our State sovereignty

throughout the entire territory of Azerbaijan and the return of the refugees and internally displaced persons to their homes would make it possible to establish lasting peace between Armenia and Azerbaijan and to restore normal neighbourly relations between our peoples. This conflict, which has continued for more than 15 years, obviously hampers the democratic development process in the region and negatively affects not only Azerbaijan and Armenia, but also the entire South Caucasus region. The position of our country regarding the conflict settlement is just and is based upon the universally recognized norms and principles of international law.

Unfortunately, the implementation of the Security Council resolutions regarding the Armenia-Azerbaijan conflict and the relevant decisions of OSCE and other international organizations has not been ensured so far, and the activity of the OSCE Minsk Group has not justified the hopes placed in it. There is no need to explain that to what extent it is dangerous to keep the situation unchanged.

The unconstructive position of Armenia in the peace talks, its refusal to recognize the territorial integrity of Azerbaijan, its stationing of foreign military bases in its territory, its supplying its army with modern destructive weapons and its frequently breaking the ceasefire regime increase the danger of restoration of military operations.

During the years of peace talks mediated by international institutions, the behaviour and statements of the leadership of Armenia have led the peace process to a difficult situation. Recently, as a result of the monitoring conducted by the OSCE fact-finding mission in the occupied territories of Azerbaijan, it was found that more than 15,000 Armenians had been illegally settled in these territories.

At the same time, attempts are being made to legitimize the separatist-terrorist regime established in the occupied territories; from time to time "elections" are held to the "power bodies" of the puppet regime. The impudence of the aggressor has gone so far that it has established a post called "president of the Nagorno-Karabakh republic" and tries to legitimize it.

Illegal operations are being carried out in the Nagorno-Karabakh region and other occupied territories. Trafficking in arms and human beings, disposal of radioactive wastes, brutal plundering of natural resources and the training of terrorist groups and illegal armed groups financed by the revenues from the cultivation, processing, transportation and production of narcotics cause serious concern. The Nagorno-Karabakh region and seven surrounding districts now have become zones of operation for different international terrorist organizations.

It has been over 15 years since Azerbaijan became the target of Armenian terrorism. From the beginning of the aggression by Armenia against our country the Armenian terrorist organizations have committed 32 acts of terror against Azerbaijan. The victims of the terror have been civilians of the cities and villages, transport communications, communication means and public infrastructure. Numerous subversive acts were perpetrated on the roads and railways and in seaports, airports, metro stations, buses and other public transport vehicles. As a direct consequence of these acts, over 2,000 Azerbaijani citizens have been killed and tens of thousands of people injured. Azerbaijan and its people have suffered huge material and moral damage.

In order to justify their territorial claims to the neighbouring States, including the Republic of Azerbaijan, and to camouflage the policy of occupation, genocide and State terrorism, the Armenian nationalists, by using all means, try to make the international community accept their fabrications, as if in 1915 they had been subjected to genocide and were "offended, oppressed and humiliated people". Unfortunately, the Parliaments and Governments of several States that shut their eyes to real genocide, such as the tragedy of Khojaly, and in a number of cases international organizations affected by the influence of the deceitful Armenian propaganda, or basing themselves upon the current political circumstances, have made the myth about "Armenian genocide" into a topic of debate, and have even adopted baseless and unjust documents in this regard.

Researchers committed to the scientific truth, including Western scholars, proved a long time ago that there had never in history been any "Armenian genocide". The fabrication about the "Armenian genocide" is a product of morbid imagination and based on forged documents. Recently, Turkey provided access to the Ottoman archives, inviting researchers, including Armenian scholars, to come and get to know the historical documents dating back to the beginning of the twentieth century. However, the refusal by the Armenian scholars to take part in the scientific discussion reveal the true worth of those who disseminate the myth about "Armenian genocide".

In reality, since the end of the nineteenth century, using the covert and open protection of tsarist Russia and other States, the Armenian nationalists cherished an illusion of creating "greater Armenia" and perpetrated acts of genocide and terror at different times in eastern Anatolia and the South Caucasus, with the intention of cleansing the territories they wanted to occupy, brutally killing about 2 million innocent people. From 1905 to 1907 and from 1918 to 1920, in Iravan, Daralayaz and Zangazur (nowadays in the territory of the modern Republic of Armenia), Tiflis, Nakhchivan, Baku, Ganja, Karabakh, Shamakhy, Guba, Mughan, Lenkaran and other places of Azerbaijan, the civilian Azerbaijani people were subjected to genocide. During the genocide perpetrated in March 1918, over 30,000 civilians were killed in Baku, the capital city of Azerbaijan. Thus millions of innocent people fell victim to the brutality of the Armenian nationalists. At present, 31 March is marked in our country as a day of genocide of the Azerbaijanis.

After the establishment of Soviet power in Armenia and Azerbaijan, a big portion of the Azerbaijani territories was annexed to Armenia with the help of the Bolshevik regime. Hundreds of thousands of Azerbaijanis remaining in the territory of Armenia were granted no autonomy, whereas the Armenians in Azerbaijan enjoyed autonomy within the Nagorno-Karabakh Autonomous Region. And so the Armenian nationalists created a basis for the future territorial claims against Azerbaijan, which resulted in further tragedies that took place at the end of the twentieth century and still continue in the South Caucasus.

During the period of more than the last 100 years, a number of generations of the Armenian people have been brought up in a spirit of animosity and hatred against the Turkish and Azerbaijani peoples. The efforts of Armenian "scholars" have resulted in the falsification of the history of the region. The history of the Armenians has been artificially changed, exaggerated and presented as an ancient one; an intensive campaign of moral aggression has been conducted against the Azerbaijanis. Taking advantage of the conditions at the end of the 1980s, the

Armenian nationalists first completed the forcible deportation of hundreds of thousands of Azerbaijanis who were the primordial inhabitants of the territory of the Republic of Armenia, and then launched an open military aggression against Azerbaijan in order to carry out their territorial claims against our country. Thus, the policy of occupation and genocide, fuelled by the ideology of hatred, has led to the present situation.

Using the atmosphere of impunity and the support of the foreign forces that are not interested in the establishment and maintenance of peace and stability in the region, the leadership of the Republic of Armenia does not hide its real intentions at all. Beginning in 1989 the Parliament of Armenia adopted a number of unlawful acts on the "unification" of Armenia and Nagorno-Karabakh. The action plans of the Armenian Government include militaristic provisions regarding Nagorno-Karabakh, while the leaders of Armenia make irresponsible statements saying that Nagorno-Karabakh will never be a part of Azerbaijan.

One of the factors that hamper the settlement of the Nagorno-Karabakh problem is the predominance of a fear of coercion in Armenian society and the existence of an intolerant atmosphere for dissent and for views regarding the Armenia-Azerbaijan conflict that differ from the official ones. In 1999, on the eve of the OSCE Istanbul summit, an unforeseen and unbelievable event took place in the Parliament of Armenia, unprecedented in the history of the modern world, even in the countries with reactionary regimes: a number of armed persons entered the session hall of the Parliament and shot some high-ranking officials of the Parliament and the Government.

Expressing the sovereign will of the Azerbaijani people, the Milli Mejlis of the Republic of Azerbaijan declares once again that the Republic of Azerbaijan will never agree to the seizure of sovereignty in a part of its territory or the outrageous occupation and separation of its primordial lands, and will resort to all possible means in order to achieve the restoration of its territorial integrity.

Demanding the implementation of Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) on complete, immediate and unconditional withdrawal from all the occupied territories of Azerbaijan, the Milli Mejlis of the Republic of Azerbaijan calls for the settlement of the Nagorno-Karabakh problem on the basis of the decisions and final documents of the OSCE Budapest, Lisbon and Istanbul summits and the recommendations and decisions of the Parliamentary Assembly of the Council of Europe.

Reaffirming the position of the Republic of Azerbaijan on the peaceful settlement of the Armenia-Azerbaijan conflict over Nagorno-Karabakh, the Milli Mejlis of the Republic of Azerbaijan demands that the co-Chairs of the OSCE Minsk Group exert an influence on the aggressor that has occupied its neighbour's lands and that it proceed, while elaborating the ways of peaceful settlement of the conflict, from the universally recognized norms and principles of international law, in particular the most fundamental ones — the territorial integrity and inviolability of borders of States.

The Parliament of Azerbaijan calls upon the Armenian side to take a constructive position in the peace process and to refrain from actions which stalemate the talks within the OSCE Minsk Group and complicate the restoration works to be carried out in the region after the settlement.

The international community should not remain indifferent to the violation of the sovereignty and territorial integrity of the Republic of Azerbaijan. It has to call the aggressor by its proper name and render assistance in the withdrawal of Armenia from the occupied Azerbaijani territories and the return of the refugees and internally displaced persons to their homes. Considering it necessary and demanding to discuss the issue of the Armenia-Azerbaijan conflict in the United Nations General Assembly, the Milli Mejlis of the Republic of Azerbaijan appeals to the Inter-Parliamentary Union, the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe, the Parliamentary Assembly of the Black Sea Economic Cooperation Organization, the Inter-Parliamentary Assembly of the Commonwealth of Independent States, the Parliamentary Union of the Organization of the Islamic Conference, the European Parliament, the NATO Parliamentary Assembly and the other international organizations, Parliaments and Governments of the world to support the just cause of Azerbaijan and to contribute to the peaceful solution of the Nagorno-Karabakh conflict on the basis of universally recognized norms and principles of international law and to the restoration of the territorial integrity of our country.

Adopted at the session of the Milli Mejlis (Parliament) of the Republic of Azerbaijan on 6 May 2005.

United Nations A/59/810–S/2005/339

General Assembly
Security Council

Distr.: General
24 May 2005
English
Original: Arabic

General Assembly
Fifty-ninth session
Agenda item 36
The situation in the Middle East

Security Council
Sixtieth year

Identical letters dated 23 May 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council

I wish to draw your attention to the contents of the letter dated 12 May 2005 addressed to you by the Permanent Representative of Israel concerning violations of the Blue Line in southern Lebanon. In that connection, your attention is drawn to the following:

1. It was Israel that violated the Blue Line when its army fired a missile at Lebanese territory on 9 May 2005. That fact is noted on page 9 of the Secretary-General's monthly report of 18 May 2005 to the Security Council concerning the situation in the Middle East. Furthermore, at 14 hours, on 21 May 2005 Israeli forces positioned on Radar hill fired heavy artillery rounds on the border town of Shab'a. That attack damaged four houses belonging to Lebanese citizens and terrorized the peaceful inhabitants of the region. The two above-mentioned violations are part of a series of attacks perpetrated by Israel against Lebanon that are periodically reported to you. The most recent such violation was notified to you in our letter dated 5 May 2005 and published under document symbol A/59/799-S/2005/304 in which it was reported that Israel committed a total of 76 violations of Lebanese sovereignty during April 2005 alone.

2. Israel continues on a nearly daily basis to violate the Blue Line and to violate Lebanon's sovereignty, including through violations of its airspace by Israeli warplanes. Such violations are in blatant defiance of the Secretary-General's calls on Israel for their cessation, most recently in the Secretary-General's appeal of 9 May 2005 contained in document SG/SM/9864, and of Security Council resolution 1583 (2005) of 28 January 2005, paragraph 7 of which draws attention to such violations, which it describes as continuing.

3. The violations by Israel of Lebanese sovereignty are contrary to resolution 425 (1978), which calls for strict respect for the territorial integrity, sovereignty and political independence of Lebanon, for a cessation of military action against Lebanon (paragraph 2) and for the restoration of international peace

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and security in the region. Israel, through the above-mentioned acts, bears responsibility for any consequences to which such acts may give rise. Lebanon calls upon the United Nations to assist it in compelling Israel to put an end to its aggression.

I should be grateful if you would have this letter circulated as a document of the General Assembly, under agenda item 36, and of the Security Council.

United Nations S/2005/340

Security Council

Distr.: General
24 May 2005

Original: English

Letter dated 23 May 2005 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

I have the honour to write on behalf of President Thabo Mbeki in his capacity as Mediator for the peace process in Côte d'Ivoire with reference to the Pretoria Agreement signed by the Ivorian parties on 6 April 2005.

Pursuant to the Pretoria Agreement on the Peace Process in Côte d'Ivoire, President Mbeki wishes to request the United Nations on behalf of the Ivorian people to participate in the organization of general elections (see paragraph 10 of the Agreement (S/2005/270, annex I)).

The Mediator hopes that the Security Council will soon agree on the appointment of a competent authority acting in the name of the international community invested with the necessary powers and uncontested moral authority to guarantee transparency and the strict respect of the rules governing the election.

We respectfully request that this letter be circulated as a document of the Security Council.

(*Signed*) Dumisani S. **Kumalo**
Ambassador and Permanent Representative
of the Republic of South Africa

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